

THE FRAMING  
OF  
INDIA'S CONSTITUTION  
SELECT DOCUMENTS



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# THE FRAMING OF INDIA'S CONSTITUTION

SELECT DOCUMENTS

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## PREFACE

In 1961, on the initiative of Prof. V. K. N. Menon, the Indian Institute of Public Administration sponsored a study of the evolution of the Constitution of India in the Constituent Assembly. The material for such a study was gathered from the reports, memoranda and data which influenced and shaped thinking in the Constituent Assembly. The original plan was to give in one volume in narrative form an elucidation of the main provisions of the Constitution as they were evolved through the different stages in the Constituent Assembly, with a companion volume containing the texts of important documents. As the work progressed, however, a great deal of valuable and fresh material became available from different sources, and a considerable enlargement of the plan of the study became necessary. Accordingly, it was decided to bring out four volumes of documents, in addition to the narrative volume on the evolution of the Constitution.

The value of these documents cannot be over-emphasized: it is these—many of them unpublished notes, memoranda, drafts, comments and reactions—that vitally affected and often moulded decision in the Constituent Assembly and its committees and gave to our Constitution its present form and content. For a proper understanding of the intentions of the framers of the Constitution, some of them throw even more light on the provisions than the debates in the Constituent Assembly.

The task involved in the selection, out of a mass of original source-material, of documents suitable for reproduction proved to be far more formidable than was apparent at the beginning. The documents have been presented in as convenient and cogent a form as possible. They have been edited with introductory notes wherever necessary. The attempt, generally, has been to arrange the material in chronological order: but in some cases this has not been possible, as documents relating to certain specific subjects have had to be grouped together.

The first volume deals with the early nationalist efforts at constitution-making, the British acceptance of the demand for a Constituent Assembly in 1942, the setting up of the Constituent Assembly and its summoning in 1946, the administrative arrangements, rules of procedure, the transfer of sovereign power and preliminary negotiations with the princely States.

The second volume, dealing in the main with the settling of the principles of the Constitution, contains the reports, minutes and proceedings of various committees, such as the Union Constitution Committee, the Provincial Constitution Committee, the Advisory Committee on Fundamental Rights, Minorities, etc.; and, in addition, it includes the texts of a large number of notes, drafts and memoranda submitted to these committees.

The third volume, concerned with the actual drafting of the provisions of the Constitution, contains the first draft of the Constitution prepared by the Constitutional Adviser, the minutes of the Drafting Committee and the Draft Constitution as settled by the Drafting Committee.

The fourth volume deals with the final stages of constitution-making and its adoption. It contains a number of comments and suggestions received from various provincial governments and legislatures, central ministries and departments, judges of the Federal Court and High Courts, members of the Constituent Assembly, public institutions and individuals. Included in the volume also are the proceedings of a conference of provincial premiers with the members of the Drafting Committee and the provisions of the Draft Constitution as adopted by the Constituent Assembly at the second reading stage and subsequently revised by the Drafting Committee.

The compilation of these documents and the preparation of the study have been carried out under the direction of a committee headed by B. Shiva Rao. As Director of the Indian Institute of Public Administration in succession to Prof. Menon, it has been my good fortune to be on this committee for almost two years. The strain on its members in guiding and supervising the research has been heavy.

A detailed acknowledgment of the help received by the project is contained in the narrative volume. It is sufficient to

state here that this work has been made possible by liberal grants from the Government of India and from the Asia Foundation.

The research staff employed on the project was small and consisted for the most part of a Chief Research Officer, an Assistant Research Officer and a stenographer. Mention of the work rendered by members of the staff has also been made in the narrative volume. All of them worked with zeal and efficiency and have contributed in no small measure to the successful completion of the task.

NEW DELHI:

J. N. KHOSLA

*January 26, 1966.*

# CONTENTS

PAGE

PREFACE . . . . .	i
-------------------	---

## PART ONE

### NATIONALIST EFFORTS AT CONSTITUTION-MAKING AND DEMAND FOR A CONSTITUENT ASSEMBLY (1889-1939)

1. The Home Rule Scheme, 1889 . . . . .	3
2. The Constitution of India Bill, 1895 . . . . .	5
3. Gokhale's Political Testament, 1914 . . . . .	15
4. Memorandum on Post-war Reforms, 1916 . . . . .	19
5. The Congress-League Scheme, <i>December</i> 1916 . . . . .	25
6. Congress Resolution on Self-Determination, <i>December</i> 1918 . . . . .	31
7. Gandhiji on Swaraj, <i>January</i> 1922 . . . . .	33
8. The National Demand, <i>February</i> 1924 . . . . .	35
9. Report of the Reforms Enquiry Committee (Minority Report), <i>December</i> 1924 . . . . .	36
10. The National Demand, <i>September</i> 1925—	39
(i) Motilal Nehru's Amendment to the Official Motion on the Reforms Enquiry Committee Report . . . . .	39
(ii) Motilal Nehru's Speech, <i>September</i> 7, 1925 . . . . .	41
11. The Commonwealth of India Bill, 1925—	43
(i) Summary of the Bill . . . . .	44
(ii) Indian Leaders' Memorandum to the Government of Britain on the Commonwealth of India Bill . . . . .	48
12. National Liberal Federation's Resolution on Constitutional Reforms, <i>December</i> 1925 . . . . .	51
13. Congress President on the Simon Commission, <i>November</i> 1927 . . . . .	53
14. Congress Resolution on Swaraj Constitution, <i>December</i> 1927—	55
(i) Presidential Speech of M. A. Ansari . . . . .	55
(ii) Resolution on Swaraj Constitution . . . . .	56
15. National Liberal Federation Resolution on the Simon Commission, <i>December</i> 1927 . . . . .	57
16. The Nehru Report, <i>August</i> 1928 . . . . .	58
17. Swaraj Party Resolution on the White Paper and the Communal Award, <i>May</i> 1934 . . . . .	76
18. Congress Resolution on the White Paper and the Communal Award, <i>June</i> 1934 . . . . .	77
19. Congress Resolution on the Joint Parliamentary Committee Report, <i>December</i> 1934 . . . . .	79
20. Congress Resolution on the Government of India Act, 1935, <i>April</i> 1936 . . . . .	80
21. Nehru's Presidential Address at the Faizpur Congress, <i>December</i> 1936 . . . . .	81

22. Faizpur Congress Resolutions, <i>December 1936</i> —	82
(i) Resolution on Elections and the Constituent Assembly . . . . .	82
(ii) Resolution on an All-India Convention of Legislators . . . . .	83
23. Congress Resolution on the Demand for a Constituent Assembly and Withdrawal of the 1935 Constitution, <i>March 1937</i> . . . . .	84
24. The National Convention of Congress Legislators, <i>March 1937</i> —	86
(i) Nehru's Presidential Address . . . . .	86
(ii) The National Demand Resolution . . . . .	91
25. Resolution in Provincial Assemblies regarding the Constituent Assembly, 1937 . . . . .	93
26. Resolution in the Central Assembly regarding the Constituent Assembly, <i>September 1937</i> —	94
(i) The Resolution . . . . .	94
(ii) Satyamurti's Speech . . . . .	94
27. Congress Resolution on Federalism, <i>February 1938</i> . . . . .	102
28. Resolution on War-Crisis adopted by Provincial Assemblies, 1939 .	104
29. Rajagopalachari's Statement on the Constituent Assembly, <i>November 1939</i> .	105
30. Gandhiji on the Constituent Assembly, <i>November 1939</i> . . . . .	108
31. Congress Resolution on Co-operation with the Government and Demand for a Constituent Assembly, <i>November 1939</i> . . . . .	111
32. A Memorandum to Cripps, <i>December 1939</i> . . . . .	112
33. Congress Resolution on the Communal Question and the Constituent Assembly, <i>December 1939</i> . . . . .	116
34. Liberal Federation Resolution on Dominion Status and a Constituent Assembly, <i>December 1939</i> . . . . .	118

## PART TWO

OFFICIAL ACCEPTANCE OF THE DEMAND AND SETTING UP  
OF THE CONSTITUENT ASSEMBLY  
(1940-1947)

35. The 'August Offer', 1940 . . . . .	123
36. The 'Cripps Offer', <i>March-April 1942</i> —	126
(i) British Prime Minister's Statement, <i>March 11, 1942</i> . . . . .	126
(ii) War Cabinet's Draft Declaration, <i>March 29, 1942</i> . . . . .	127
(iii) Congress Resolution on the Cripps Offer, <i>April 1942</i> . . . . .	129
37. The 'Quit India' Resolution of the Congress, <i>August 1942</i> . . . . .	132
38. The 'Wavell Plan', <i>June 1945</i> —	136
(i) White Paper on India, <i>June 14, 1945</i> . . . . .	136
(ii) Viceroy's Broadcast, <i>June 14, 1945</i> . . . . .	139
39. Viceroy's Statement on the Failure of the Simla Conference, <i>July 1945</i> .	143
40. Viceroy's Broadcast, <i>September 1945</i> . . . . .	145
41. Congress Resolution on United India and Self-Determination, <i>September</i> 1945 . . . . .	147

	PAGE
42. Statement of the Secretary of State for India, <i>December 1945</i> . . . . .	149
43. Constitutional Proposals of the Sapru Committee, <i>December 1945</i> . . . . .	151
44. Outlines of a New Constitution by B. N. Rau, <i>January 1946</i> . . . . .	157
45. Secretary of State for India's Announcement regarding Despatch of Cabinet Mission to India, <i>February 1946</i> . . . . .	177
46. Stafford Cripps' Statement at the Press Conference regarding the Task and the Approach of the Cabinet Mission, <i>April 1946</i> . . . . .	179
47. Correspondence and other Documents connected with the Conference between the Cabinet Mission and Representatives of the Congress and the Muslim League at Simla, <i>April-May 1946</i> —	190
(i) Letter from Pethick-Lawrence to Abul Kalam Azad, President of the Congress, and M. A. Jinnah, President of the Muslim League, <i>April 27, 1946</i> . . . . .	191
(ii) Letter from the President of the Congress to Pethick-Lawrence, <i>April 28, 1946</i> . . . . .	192
(iii) Letter from the President of the Muslim League to Pethick-Lawrence, <i>April 29, 1946</i> . . . . .	193
(iv) Letter from the President of the Congress to Pethick-Lawrence, <i>May 6, 1946</i> . . . . .	195
(v) Letter from Pethick-Lawrence to the Presidents of the Muslim League and the Congress, <i>May 8, 1946</i> . . . . .	196
(vi) Letter from Private Secretary to Pethick-Lawrence to the Presidents of the Congress and the Muslim League, <i>May 8, 1946</i> . . . . .	197
(vii) Letter from the President of the Muslim League to Pethick-Lawrence, <i>May 8, 1946</i> . . . . .	198
(viii) Letter from Pethick-Lawrence to the President of the Muslim League, <i>May 9, 1946</i> . . . . .	199
(ix) Letter from the President of the Congress to Pethick-Lawrence, <i>May 9, 1946</i> . . . . .	201
(x) Memorandum by the President of the Muslim League embodying minimum demands by way of an offer, in accordance with the Conference decision (copies sent to the Cabinet Delegation and the Congress), <i>May 12, 1946</i> . . . . .	203
(xi) Points suggested on behalf of the Congress as a basis for agreement, <i>May 12, 1946</i> . . . . .	205
(xii) Note by the Congress on the Principles to be agreed upon as suggested on behalf of the Muslim League, <i>May 12, 1946</i> . . . . .	206
48. Cabinet Mission's Plan, <i>May 16, 1946</i> —	208
(i) Statement by the Cabinet Mission and the Viceroy, <i>May 16, 1946</i> . . . . .	209
(ii) Secretary of State for India's Broadcast, <i>May 16, 1946</i> . . . . .	218
(iii) Exposition of the Cabinet Mission's Statement by Stafford Cripps at a Press Conference, <i>May 16, 1946</i> . . . . .	221
(iv) Proceedings of the Press Conference held by the Cabinet Mission, <i>May 17, 1946</i> . . . . .	225
(v) Viceroy's (Wavell's) Broadcast, <i>May 17, 1946</i> . . . . .	243
49. Cabinet Mission's Memorandum on States' Treaties and Paramountcy, <i>May 12/22, 1946</i> . . . . .	246
50. Congress and League Reactions to the Cabinet Mission's Plan, <i>May 20—24, 1946</i> —	249
(i) Letter from Azad to the Secretary of State, <i>May 20, 1946</i> . . . . .	249
(ii) Letter from the Secretary of State to Azad, <i>May 22, 1946</i> . . . . .	251
(iii) Jinnah's Statement, <i>May 22, 1946</i> . . . . .	252
(iv) Congress Working Committee Resolution, <i>May 24, 1946</i> . . . . .	255



	PAGE
51. Cabinet Mission's Explanatory Statement, <i>May 25, 1946</i> . . . . .	258
52. Sikhs' Opposition to the Cabinet Mission's Plan, <i>May-June 1946</i> —	260
(i) Letter from Master Tara Singh to the Secretary of State, <i>May 25, 1946</i> . . . . .	260
(ii) Resolution of the Sikh Panthic Conference, <i>June 10, 1946</i> . . . . .	261
53. Muslim League Resolution on the Cabinet Mission's Plan, <i>June 6, 1946</i> . . . . .	263
54. Azad-Viceroy Correspondence, <i>June 14—16, 1946</i> —	265
(i) Letter from Azad to the Viceroy, <i>June 14, 1946</i> . . . . .	265
(ii) Letter from the Viceroy to Azad, <i>June 15, 1946</i> . . . . .	266
(iii) Letter from Azad to the Viceroy, <i>June 16, 1946</i> . . . . .	267
55. Princely States' Response to the Cabinet Mission's Plan, <i>June 1946</i> —	268
(i) Letter from the Nawab of Bhopal, Chancellor of the Chamber of Princes, to the Viceroy, <i>June 19, 1946</i> . . . . .	268
(ii) Letter from the Viceroy to the Nawab of Bhopal, Chancellor of the Chamber of Princes, <i>June 29, 1946</i> . . . . .	271
56. Bengal Europeans' Decision to abstain from the Constituent Assembly Elections, <i>June-July, 1946</i> —	273
(i) Resolution passed by the European Party in the Bengal Legislative Assembly, <i>June 15, 1946</i> . . . . .	273
(ii) Statement by the European Party in the Bengal Legislative Assembly, <i>July 5, 1946</i> . . . . .	273
57. Cabinet Mission's Statement on an Interim Government, <i>June 16, 1946</i> . . . . .	275
58. Congress Resolution accepting the Cabinet Mission's Plan, <i>June 25, 1946</i> . . . . .	278
59. Cabinet Mission's Statement, <i>June 26, 1946</i> . . . . .	280
60. Muslim League Decision to boycott the Constituent Assembly, <i>June-July, 1946</i> —	282
(i) Jinnah's Statement, <i>June 27, 1946</i> . . . . .	282
(ii) Letter from Jinnah to the Viceroy, <i>June 28, 1946</i> . . . . .	283
(iii) Letter from the Viceroy to Jinnah, <i>June 28, 1946</i> . . . . .	284
(iv) Muslim League Resolution withdrawing Acceptance of the Cabinet Mission's Plan, <i>July 27—29, 1946</i> . . . . .	284
(v) Muslim League Resolution on 'Direct Action', <i>July 27—29, 1946</i> . . . . .	285
61. Elections to the Constituent Assembly, <i>July 1946</i> —	287
(i) Table of Representation [ <i>vide</i> para 19(1) of the May 16 Statement] . . . . .	287
(ii) Statement showing the Party-wise Composition of Provincial Assemblies at the time of the Elections to the Constitution-Making Body . . . . .	288
(iii) Election Analysis showing the relative Strength of Political Parties . . . . .	292
(iv) Important Personalities elected to the Constituent Assembly . . . . .	295
(v) Women elected to the Constituent Assembly . . . . .	296
(vi) Number of Seats in the Constituent Assembly secured by Members of Legislatures . . . . .	297
✓(vii) Analysis by Parties, Communities and Interests . . . . .	298
(viii) Table showing the number of Members of different Parties returned to the Constituent Assembly from the General and Muslim Parts of each Provincial Legislature . . . . .	300
(ix) Table showing the number of Members of different Communities returned to the Constituent Assembly from the General and Muslim Parts of each Provincial Legislature . . . . .	301
(x) List of Members elected to the Constituent Assembly . . . . .	302
62. Sikhs' Decision to join the Constituent Assembly, <i>August 14, 1946</i> . . . . .	311

	PAGE
63. Attempts to secure Muslim League's Co-operation, <i>August-November 1946</i> —	313
(i) Congress Resolution, <i>August 10, 1946</i> . . . . .	314
(ii) Viceroy's Broadcast, <i>August 24, 1946</i> . . . . .	315
(iii) Nehru's Broadcast, <i>September 7, 1946</i> . . . . .	317
(iv) Notes exchanged between Jinnah and B. N. Rau, <i>September 1946</i>	317
(v) Viceroy's Letter to Jinnah, <i>November 5, 1946</i> . . . . .	323
(vi) Jinnah's Letter to the Viceroy, <i>November 17, 1946</i> . . . . .	323
(vii) Jinnah's Statement finally dissociating the League from the Constitu- tuent Assembly, <i>November 21, 1946</i> . . . . .	325
64. Preparations for the Constituent Assembly at the Congress Party Level, <i>July-November 1946</i> —	326
(i) Proceedings of the Experts Committee, <i>July 20, 1946</i> . . . . .	326
(ii) Recommendations of the Experts Committee, <i>July 20, 21 and 22, 1946</i>	328
(iii) Proceedings of the Experts Committee Meetings, <i>August 15, 16 and 17,</i> <i>1946</i> . . . . .	331
(iv) Notes submitted to the Experts Committee by its Members . . . . .	332
(v) Congress Resolution on the Objectives of the Constitution, <i>November</i> <i>20, 1946</i> . . . . .	342
65. The London Conference held to resolve the Congress-League Differences, <i>November 1946—January 1947</i> —	344
(i) Letter from Nehru to the Viceroy, <i>November 26, 1946</i> . . . . .	345
(ii) Cable from Attlee to Nehru, <i>November 27, 1946</i> . . . . .	346
(iii) Cable from Nehru to Attlee, <i>November 28, 1946</i> . . . . .	346
(iv) Statement issued by His Majesty's Government, <i>December 6, 1946</i>	347
(v) The Congress Working Committee's Statement, <i>December 22, 1946</i> . .	348
(vi) Congress Resolution on H. M. G.'s Statement, <i>January 5—6, 1947</i> .	352
(vii) Muslim League Resolution on H. M. G.'s Statement, <i>January 31, 1947</i>	353
66. Setting up the Constituent Assembly Secretariat—Correspondence and Notes between G. E. B. Abell, Private Secretary to the Viceroy, B. N. Rau and Rajendra Prasad, <i>June-December 1946</i> —	360
(i) Outline of an Organisation for the Constituent Assembly Secretariat by B. N. Rau, <i>June 5, 1946</i> . . . . .	360
(ii) Letter from G. E. B. Abell to B. N. Rau, <i>June 8, 1946</i> . . . . .	362
(iii) Letter from B. N. Rau to G. E. B. Abell, <i>June 15, 1946</i> . . . . .	363
(iv) Draft Letters for issue to Governors' Secretaries and to the Political Adviser by B. N. Rau . . . . .	364
(v) Note on the Secretariat Organisation and Financial Arrangements for the Constituent Assembly prepared by the Reforms Office, <i>July 24,</i> <i>1946</i> . . . . .	367
(vi) Letter from B. N. Rau to Rajendra Prasad, <i>December 7, 1946</i> . . .	371
(vii) Letter from Rajendra Prasad to B. N. Rau, <i>December 8, 1946</i> . . .	371

## PART THREE

## SUMMONING AND OPENING OF THE CONSTITUENT ASSEMBLY

67. Notes and Letters exchanged between Nehru and B. N. Rau in regard to the Summoning of the Constituent Assembly and Allied Matters, <i>September, 1946</i> —	375
(i) B. N. Rau's Note to Nehru, <i>September 7, 1946</i> . . . . .	375
(ii) Nehru's Note to Eric Coates, Secretary, Cabinet Co-ordination Committee (copy to B. N. Rau), <i>September 8, 1946</i> . . . . .	382

	PAGE
(iii) Nehru's Letter to B. N. Rau, <i>September 8, 1946</i> . . . . .	384
(iv) B. N. Rau's Letter to Nehru, <i>September 9, 1946</i> . . . . .	384
(v) Nehru's Letter to B. N. Rau, <i>September 16, 1946</i> . . . . .	385
68. Correspondence between B. N. Rau and G. E. B. Abell in regard to the Manner of Summoning the Constituent Assembly and the Form of Invitation, <i>September-November, 1946</i> —	386
(i) Letter from G. E. B. Abell to B. N. Rau, <i>September 17, 1946</i> . . . . .	386
(ii) B. N. Rau's Letter to Abell, <i>November 6, 1946</i> . . . . .	387
(iii) Abell's Reply to B. N. Rau, <i>November 9, 1946</i> . . . . .	387
(iv) Abell's Letter to B. N. Rau, <i>November 20, 1946</i> . . . . .	388
(v) Invitation to Members to attend the First Meeting of the Constituent Assembly, issued by the Secretary of the Constituent Assembly, <i>November 20, 1946</i> . . . . .	388
69. Validity of Constituent Assembly Meetings in the Absence of League Members, <i>November-December 1946</i> —	389
(i) B. N. Rau's Views . . . . .	389
(ii) K. M. Munshi's Views . . . . .	390
70. Inaugural Address by Sachchidananda Sinha, Provisional Chairman on the Opening Day of the Constituent Assembly, <i>December 9, 1946</i> —	393
(i) J. B. Kripalani's Speech . . . . .	393
(ii) Goodwill Messages from abroad . . . . .	394
(iii) Chairman's Inaugural Address . . . . .	394

#### PART FOUR

##### PROCEDURE OF THE CONSTITUENT ASSEMBLY

71. A Note on Points of Procedure, <i>September 2, 1946</i> . . . . .	405
72. Resolution on the Procedure for the Election of the Permanent Chairman, <i>December 10, 1946</i> . . . . .	419
73. Resolution on the provisional Adoption of Central Legislative Assembly Rules and Standing Orders, <i>December 10, 1946</i> . . . . .	421
74. Committee on the Rules of Procedure, <i>December 1946</i> —	422
(i) Resolution appointing the Committee, <i>December 10, 1946</i> . . . . .	422
(ii) Report of the Committee, <i>December 20, 1946</i> . . . . .	424
75. Constituent Assembly Rules of Procedure and Standing Orders ( <i>as amended upto October 15, 1949</i> ) . . . . .	437

#### PART FIVE

##### COMMITTEES (ADMINISTRATIVE) OF THE HOUSE

76. The Finance and Staff Committee, <i>December 23, 1946</i> . . . . .	477
77. The Credentials Committee, <i>December 23, 1946</i> . . . . .	479
78. The House Committee, <i>December 23, 1946</i> . . . . .	480
79. Press Gallery Committee, <i>January 7, 1947</i> . . . . .	482
80. The Steering Committee, <i>January 21, 1947</i> . . . . .	483
81. Order of Business Committee, <i>April-July 1947</i> . . . . .	485

## PART SIX

## THE NATIONAL FLAG

82. Adoption of the National Flag—	491
(i) Notification on the Appointment of the <i>Ad hoc</i> Committee, <i>June 23, 1947</i>	491
(ii) Congress Working Committee Resolution, <i>August 1931</i> . . . . .	492
(iii) All-India Congress Committee Resolution, <i>August 1931</i> . . . . .	493
(iv) A Note on the Points Suggested for Discussion at the <i>Ad hoc</i> Committee Meeting, <i>July 10, 1947</i> . . . . .	493
(v) Note on a National Flag for India by S. D. Kalelkar, <i>July 1947</i> . . . . .	494
(vi) <i>Ad hoc</i> Committee Minutes, <i>July 10 and 18, 1947</i> . . . . .	496
(vii) Nehru's Speech . . . . .	497
(viii) Radhakrishnan's Speech . . . . .	504
(ix) Mohammad Saadulla's Speech . . . . .	505
(x) Shrimati Sarojini Naidu's Speech . . . . .	507
83. Prasad-Nehru Correspondence regarding the National Flag, <i>July 27, 1947</i> —	510
(i) Rajendra Prasad's Letter to Nehru, <i>July 27, 1947</i> . . . . .	510
(ii) Nehru's Letter to Rajendra Prasad, <i>July 27, 1947</i> . . . . .	511

## PART SEVEN

## TRANSFER OF POWER

84. British Prime Minister's Statement, <i>February 20, 1947</i> —	515
(i) Prime Minister Attlee's Statement, <i>February 20, 1947</i> . . . . .	515
(ii) Nehru's Statement, <i>February 22, 1947</i> . . . . .	518
(iii) Congress Resolution, <i>March 6—8, 1947</i> . . . . .	519
85. The Mountbatten Plan, <i>June 3, 1947</i> —	521
(i) H. M. G.'s Statement, <i>June 3, 1947</i> . . . . .	521
(ii) Nehru's Broadcast, <i>June 3, 1947</i> . . . . .	527
(iii) Congress Resolution, <i>June 15, 1947</i> . . . . .	529
86. Indian Independence Act, 1947—	531
(i) Secretary of State's Speech in the House of Lords on the Indian Independence Bill, <i>July 16, 1947</i> . . . . .	531
(ii) Indian Independence Act, 1947 . . . . .	539
87. Assumption of Power by the Constituent Assembly, <i>August 14—15, 1947</i> —	556
(i) President's Address . . . . .	556
(ii) Nehru's Speech on his Motion regarding Pledge by Members . . . . .	558
(iii) Radhakrishnan's Speech . . . . .	560
88. Goodwill Messages from abroad and Addresses by the Governor-General and the President of the Constituent Assembly, <i>August 15, 1947</i> —	564
(i) Message from the Prime Minister of the United Kingdom . . . . .	564
(ii) Message from the Archbishop of Canterbury . . . . .	564
(iii) Message from the President of the Republic of China . . . . .	564
(iv) Message from the Prime Minister of Canada . . . . .	565
(v) Message from the Prime Minister of Australia . . . . .	565
(vi) Message from the President of the Executive Yuan, Nanking . . . . .	565
(vii) Message from Dr. Soedarsono on behalf of the Republic of Indonesia . . . . .	565

	PAGE
(viii) Message from His Majesty's Minister in Nepal . . . . .	566
(ix) Message from the Prime Minister and Acting Minister of Foreign Affairs of Norway . . . . .	566
(x) Message from the Minister of Foreign Affairs of France . . . . .	566
(xi) Message from the President of the United States of America . . . . .	566
(xii) The Governor-General's Address . . . . .	567
(xiii) President Rajendra Prasad's Address . . . . .	571

## PART EIGHT

### FUNCTIONS OF THE CONSTITUENT ASSEMBLY

89. Committee on Functions of the Constituent Assembly, <i>August 1947—</i>	579
(i) Note by the Constitutional Adviser, <i>August 22, 1947</i> . . . . .	579
(ii) Nehru's Note to the President of the Constituent Assembly, <i>August 23, 1947</i> . . . . .	580
(iii) Report of the Committee, <i>August 25, 1947</i> . . . . .	581

## PART NINE

### ENTRY OF INDIAN STATES

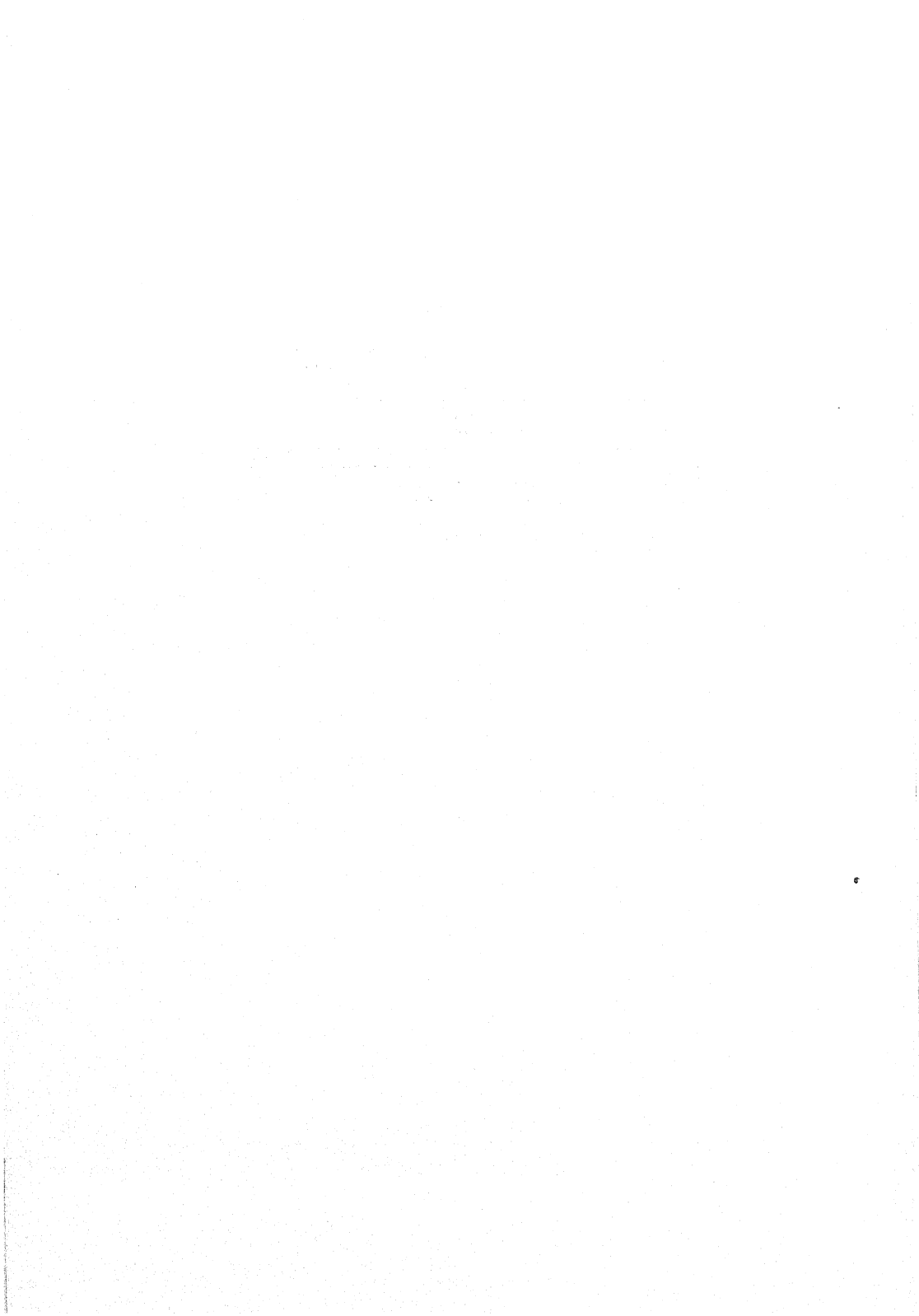
90. Setting up of the States Negotiating Committee by the Chamber of Princes and the States Committee by the Constituent Assembly, <i>November 1946—January 1947—</i>	587
(i) Letter from Gopalaswami Ayyangar to Nehru, <i>November 18, 1946</i> . . . . .	588
(ii) A Note by Gopalaswami Ayyangar, <i>November 1946</i> . . . . .	590
(iii) Letter from the Nawab of Bhopal to H. V. R. Iengar, Secretary, Constituent Assembly, <i>November 27, 1946</i> . . . . .	595
(iv) Constituent Assembly Resolution setting up the States Committee, <i>December 21, 1946</i> . . . . .	597
(v) Constituent Assembly Resolution vesting in the States Committee additional power to confer with the Sikkim and Bhutan authorities, <i>January 22, 1947</i> . . . . .	597
91. Papers relating to the States Committee, <i>December 1946—June 1947—</i>	598
(i) Letter from B. L. Mitter, Dewan of Baroda, to the Secretary of the Constituent Assembly, <i>January 8, 1947</i> . . . . .	598
(ii) B. N. Rau's Note on the Distribution of Seats among the Princely States, <i>January 28, 1947</i> . . . . .	599
(iii) Resolution adopted at a meeting of the Princes setting out their Terms for Co-operation, <i>January 29, 1947</i> . . . . .	605
(iv) Statement prepared by the Secretariat of the Princes' Chamber showing 140 States, the Rulers of which are Members of the Chamber of Princes in their own right, arranged according to population ( <i>corrected upto February 3, 1947</i> ) . . . . .	607
(v) Summary of Discussions at the Meetings of the States People's Negotiating Committee, <i>February 5, 1947</i> . . . . .	612
(vi) Baroda's Proposals regarding Election of the States Representatives to the Constituent Assembly, <i>February 7, 1947</i> . . . . .	615
(vii) Note circulated by the Secretary of the Constituent Assembly, <i>February 8, 1947</i> . . . . .	617
(viii) B. N. Rau's Note regarding the Negotiations between the States Committee and the corresponding Committee of the Princes, <i>February 8, 1947</i>	618
(ix) Press Communique regarding Baroda's Representation issued by the Secretary of the Constituent Assembly, <i>February 9, 1947</i> . . . . .	618

(x) Joint Statement issued by the Nawab of Bhopal, Chancellor of the Chamber of Princes and Jawaharlal Nehru, <i>February 9, 1947</i> . . . . .	618
(xi) B. N. Rau's Note regarding the Proposed Allocation of Seats, <i>February 10, 1947</i> . . . . .	619
(xii) Note on the Proposed Allocation of Seats among States prepared by the Secretariats of the Constituent Assembly and the Chamber of Princes, <i>February 11, 1947</i> . . . . .	619
(xiii) Telegram from Maharaja of Cochin to the President of the Constituent Assembly Negotiating Committee, <i>February 18, 1947</i> . . . . .	625
(xiv) B. N. Rau's Note on the Method of Selection of States' Representatives, <i>February 22, 1947</i> . . . . .	625
(xv) A Note by the States People's Conference, <i>February 24, 1947</i> . . . . .	628
(xvi) Resolution passed at the Princes Meeting held in Bombay, <i>April 2, 1947</i> . . . . .	632
(xvii) Letter from Rev. J. J. M. Nichols-Roy to the Chairman, States Committee, <i>April 3, 1947</i> . . . . .	633
(xviii) Letter issued to all the Princely States in the various Groups of States by the Constituent Assembly of India, <i>June 7, 1947</i> . . . . .	634
92. Minutes of the Meetings of the States Committee of the Constituent Assembly, <i>January-February 1947</i> . . . . .	635
93. Proceedings of the Joint Meetings of the States Committee of the Constituent Assembly and the States Negotiating Committee of the Chamber of Princes, <i>February-March 1947</i> . . . . .	643
94. Minutes of the Meetings of the Joint Sub-Committee appointed by the States Committee of the Constituent Assembly and the Negotiating Committee of the Chamber of Princes, <i>March-June 1947</i> . . . . .	722
95. Summary of the Discussions held at Bombay by the Rulers of Princely States and their Ministers, <i>March-April 1947</i> . . . . .	729
96. Report of the States Committee, <i>April 24, 1947</i> —	732
(i) Report of the Committee . . . . .	732
(ii) Nehru's Speech moving the Report for consideration, <i>April 28, 1947</i> . . . . .	736
97. Minutes of the Conference of the Representatives of the Secretariats of the Constituent Assembly and the States Ministry, <i>June 1948</i> . . . . .	744
98. Minutes of the Conference of the Rajpramukhs or Up-Rajpramukhs of States' Unions and their Premiers, and the Premiers of certain Provinces, <i>July 17, 1948</i> . . . . .	747

*Facsimile following Document No. 88(xiii)*

Rajendra Prasad's Address, *August 15, 1947 (Hindi)* . . . . . 575

PART ONE  
NATIONALIST EFFORTS AT  
CONSTITUTION-MAKING  
AND  
DEMAND FOR A CONSTITUENT  
ASSEMBLY  
(1889-1939)





## THE HOME RULE SCHEME

### 1889

*[The 1889 session of the Indian National Congress at Bombay, presided over by William Wedderburn, was notable for the presence of Charles Bradlaugh, a member of the British House of Commons, whose active interest in Indian affairs had earned for him the popular description of 'Member for India'. On December 26, the President, opening the business of the day—the reform of the Legislative Councils—said that Bradlaugh had prepared a draft Bill 'embodying the views of the Congress as so far expressed'. Bradlaugh wished to obtain the mature opinion of Indian leaders on certain matters so that it might be appropriately embodied in the Bill. Accordingly, a resolution (II of 1889), outlining for incorporation in the Bill a skeleton scheme for introducing representative institutions in India was moved at the Congress by Eardley Norton. After some lively discussion, the resolution, which was supported, among others, by G. Subramania Iyer, Bepin Chandra Pal, Lajpat Rai, Madan Mohan Malaviya and Surendranath Banerji, was carried by an overwhelming majority. By a supplementary resolution (XI of 1889) the Congress instructed its Subjects Committee to settle the question of disqualifications for members and voters and to report to Charles Bradlaugh. Bradlaugh promised to introduce in the House of Commons a Bill on the lines laid down by the Congress as soon as he returned to England. On February 12, 1890, he introduced the Indian Councils Amendment Bill. The Bill sought to make better provision for the constitution of the Imperial and Provincial Legislative Councils by increasing their numbers, constituting them on a partially elective basis and enlarging their powers. However, the Bill proved infructuous, having been crowded out by other business. In 1891, Bradlaugh died.]*

*The 1889 Congress scheme and Bradlaugh's Bill, sometimes referred to as the Home Rule Bill, are important inasmuch as they represent the first attempt at introducing an elective Indian element in the Legislative Councils. The texts of the resolutions—II and XI of the 1889 Congress—embodying the Councils Reforms Scheme (or the Home Rule Scheme) are reproduced below.]*

II. Resolved—That the following skeleton scheme for the reform and reconstitution of the Council of the Governor-General for making Laws and Regulations, and the Provincial Legislative Councils, is adopted, and that

the President of this Congress do submit the same to Charles Bradlaugh, Esq., M.P., with the respectful request of this Congress that he may be pleased to cause a Bill to be drafted on the lines indicated in this skeleton scheme and introduce the same in the British House of Commons :

- (1) The Imperial and Provincial Legislative Councils to consist respectively of Members not less than one half of whom are to be elected, not more than one-fourth to sit *ex-officio*, and the rest to be nominated by Government.
- (2) Revenue districts to constitute ordinarily territorial units for electoral purposes.
- (3) All male British subjects above 21 years of age possessing certain qualifications and not subject to certain disqualifications (both of which will be settled later) to be voters.
- (4) Voters in each district to elect representatives to one or more electoral bodies, according to local circumstances, at the rate of 12 per million of the total population of the district, such representatives to possess certain qualifications and not to be subject to certain disqualifications, both of which will be settled later.
- (5) All the representatives thus elected by all the districts included in the jurisdiction of each electoral body, to elect members to the Imperial Legislature at the rate of 1 per every five millions of the total population of the electoral jurisdiction, and to their own Provincial Legislature at the rate of 1 per million of the said total population, in such wise that whenever the Parsis, Christians, Muhammadans or Hindus are in a minority, the total number of Parsis, Christians, Muhammadans or Hindus, as the case may be, elected to the Provincial Legislature, shall not, so far as may be possible, bear a less proportion to the total number of members elected thereto, than the total number of Parsis, Christians, Hindus or Muhammadans, as the case may be, in such electoral jurisdiction, bears to its total population. Members of both Legislatures to possess certain qualifications and not to be subject to certain disqualifications both of which will be settled later.
- (6) All elections to be by ballot.

XI. *Resolved*—That the Subjects Committee be instructed to settle the questions (left open in the skeleton scheme for the reconstruction of the Councils, embodied in Resolution II), of the qualifications requisite for, and the disqualifications which should debar from, becoming (a) a Voter; (b) a Representative; (c) a Member of a Provincial Legislative Council; and (d) a Member of the Imperial Legislative Council; and to submit their Report thereon to Charles Bradlaugh, Esq., M.P., for the purposes of the Bill which he has been requested to have drawn.

## 2

# THE CONSTITUTION OF INDIA BILL 1895

*[This draft Bill represents the first non-official attempt at drafting a constitution for India. There is no clear evidence about its authorship. However, Mrs. Annie Besant, who described it as the Home Rule Bill for India and a forerunner of later attempts in that direction, thought that it was probably issued under Lokamanya Bal Gangadhar Tilak's inspiration.]*

*In a brief preface dated May 8, 1895, the author of the Bill explained that it contained the outlines of the constitution which he wished India to get from the British Government. While admitting that at that time the people of India were "far from being able to exercise the rights proposed to be conferred" upon them, he hoped that "under the benign Government of the British" they would "in future be able to enjoy and use them to the greatest advantage of their country and the British Government". The author added that he had consulted the Constitutions of Brazil and the United States in drafting the Bill.]*

### P R E A M B L E

BE IT ENACTED by the Queen's Most Excellent Majesty by and with advice and consent of the Lords Spiritual and Temporal and Commons, in..... Parliament assembled and by the authority of the same, as follows :

### P R E L I M I N A R Y

1. This Act may be called the Constitution of India Act.

It extends to the whole of India, and it shall come into force on the first day of January———

2. On and from that day, the enactments mentioned in the Schedule shall be repealed to the extent specified in the second column thereof.

3. In this Act, unless there be something repugnant in the subject or context:

(a) The Parliament of India means an Assembly of representatives—official as well as non-official—of the Indian Nation.

(b) The word "District" shall include the capital of a Province.

(c) The word "laws" includes Civil, Criminal, Revenue, Ecclesiastical or Military laws.

(d) The Indian citizens are :

(i) Those born in India.

(ii) The children of an Indian father and the natural children of an Indian mother, born in a foreign country, who may acquire a domicile in the Empire.

(iii) The children of an Indian father who shall be in a foreign country, in the service of the Empire, although they may not acquire domicile in the Empire.

(iv) Foreigners naturalised.

4. *Of the Empire of India.* The Empire of India shall be a National association of all Indian citizens.

5. *Territories of India.* (1) Its territory shall be divided into the following Provinces: (i) Bengal, including Bihar and Assam; (ii) Madras; (iii) Bombay, including Sindh and Baluchistan; (iv) North-West Provinces, including Oudh; (v) The Punjab; (vi) The Central Provinces and Berar; (vii) Burma; (viii) Central India; (ix) Rajputana; (x) Hyderabad Dominions.

(2) Each of the above mentioned Provinces shall be divided into as many (a) Divisions; (b) Districts; (c) Talukas; and (d) Village Groups as is necessary for the efficient Government of India.

6. *Religions of India.* All religions, creeds and faiths are allowed in the Empire, and the modes of worship may either be domestic, private or public.

## THE GOVERNMENT OF INDIA

### *Parliament of India*

7. The Constitution of India shall be divided into 4 powers, viz. (a) The Sovereign power; (b) The Legislative power; (c) The Judicial power; (d) The Executive power.

8. All the powers in the Empire are the delegations of the Nation.

9. All the Supreme, Legislative, Judicial and Executive powers shall be vested in the Parliament of India.

10. The Legislative power shall make laws, rules and regulations, the Judicial power shall interpret, declare and enforce them, and the Executive power shall administer them, as interpreted and declared by the Judicial power.

11. The Judicial and the Executive powers shall be subordinate to the Legislative power.

12. No law shall be made unless for public benefit.

13. Every citizen has a right to take part in the affairs of his country. The means by which such right shall be recognised shall be prescribed by the Parliament of India.

14. All citizens of India are required to bear arms, to maintain and defend the Empire against its internal and external enemies.

15. No citizen shall do, or omit to do, any act unless by virtue of law.

16. Every citizen may express his thoughts by words or writings, and publish them in print without liability to censure, but they shall be answerable for abuses, which they may commit in the exercise of this right, in the cases and in the mode the Parliament shall determine.

17. Every citizen has in his house an inviolable asylum.

18. No one can be imprisoned without a special crime proved against him according to law.

19. No one shall be sentenced except by competent authority.

20. The law shall be equal to all.

21. Every citizen may be admitted to public office.

22. No one shall be exempted from contributing to the expenses of the State in proportion to his substance.

23. Every citizen shall enjoy right of property to its fullest extent, except where the law determines otherwise.

24. Every citizen has a right to present to his Sovereign or to the Parliament, or to any Legislative, Judicial or Executive authority claims, petitions and complaints.

25. State Education shall be Free in the Empire.

26. Primary Education shall be Compulsory in the Empire.

27. The rights of an Indian citizenship are lost by (1) Those who become naturalised in a foreign country; (2) Those who without the licence of the Government of India accept any office, pension or honour, from any foreign Government; (3) Those sentenced to banishment.

28. The political rights of an Indian citizen are lost by (1) Physical or moral incapacity; (2) Sentence of imprisonment or of banishment during the continuance of its operation.

29. Every citizen has a right to give one vote for electing a member to the Parliament of India and one to the Local Legislative Council.

#### *The Sovereign Power*

30. The Sovereign power of India shall be vested in the Sovereign of Great Britain and Ireland, who is the supreme head of the Indian Nation.

31. The Viceroy of India shall be the representative of the Sovereign of Great Britain and Ireland in India.

32. The Sovereign of Great Britain and Ireland shall reign and rule over the Empire of India.

33. The Viceroy of India may veto any Act of the Parliament of India and may initiate any legislation.

34. The Viceroy of India shall be the President of the Parliament.

34a. The Viceroy of India shall be appointed by the Sovereign of Great Britain and Ireland.

#### *The Legislative Functions of Parliament*

35. All Legislative powers shall be delegated by the Nation to an Assembly of its representatives which shall be called the Parliament of India.

36. The representatives of the Nation shall be officials and non-officials.
37. The Parliament of India shall consist of two Houses : (1) the Upper House and (2) the Lower House.
38. The Upper House shall be an Assembly composed of :
- (a) Members chosen by the people to continue in office for life;
  - (b) The following Official Members :
    - (1) Privy Council Judges,
    - (2) Cabinet Ministers;
  - (c) Members chosen for life to represent the following professions, trades and interests :
    - Legal Profession.*—10 Advocates, Barristers or Vakils elected by the bar;  
 [“Bar” means Advocates, Barristers or Vakils of the High Court or District Court, practising in Privy Council, High Courts, District Courts or Taluka Courts.]
    - Medical Profession.*—10 duly qualified medical practitioners elected by duly qualified medical practitioners;
    - Municipalities.*—25 members elected by Municipal Commissioners;
    - University.*—10 Fellows elected by Fellows;
    - Commerce.*—30 members elected by all Chambers of Commerce;
  - (d) 20 nominated by the Sovereign.
39. Each Division shall send two representatives and each District one representative to the Upper House.
40. The Lower House shall be an assembly composed of Members chosen by the people to continue in office for 3 years and Members chosen to represent the following professions to continue in office for 3 years [See Section 38(c)].
41. Each Division shall send two representatives and each District one representative to the Lower House.
42. If vacancies happen by resignation or otherwise in any Division or District, the Executive thereof shall issue writs of election to fill such vacancies.
43. No person shall be a representative of the Lower or the Upper House who shall not have attained to the age of 25 years, and been 10 years a citizen of India.
44. There shall be one President for both the Houses of Parliament who shall be the Viceroy of India, and one Vice-President for each House.
45. The Parliament shall choose their Vice-Presidents and other officers.
46. The Legislative functions of the Parliament shall be conducted by both the Houses in the manner prescribed by this Act.
47. The President and the Vice-President of the Upper House shall hold their offices for 5 years, and the Vice-President of the Lower House shall hold his office for 3 years.

48. The Viceroy of India shall be the head of the Parliament during the tenure of his office and shall be assisted in the conduct of the Judicial Administration of India by the Privy Council and the Executive Administration by the Cabinet of Ministers, as constituted under this Act.

49. The Parliament shall make, suspend or revoke laws, rules and regulations, for the Government of India relating to the preservation of the Constitution of the Empire, Ecclesiastical Establishments, or Institutions, Matters of Succession, Inheritance, Adoption, Marriages, Partitions of Estates, Gifts of Property, Wills, Property, Procedures of the Civil and Criminal Courts, Arbitrations in Disputes, Limitation of Suits, Appeals or Applications, Contracts, Sales and Purchases, Agency, Bailment, Partnership, Indemnity and Guarantee, Civil Wrongs and Defamation, Duties of Masters and Servants, Copyright, Patents, Judicial Evidence, Registration of Documents, Stamps and Court Fees, Crimes, Prison Administration, Municipal Government, Police, Matters of Equity, Specific Relief, Trust, Mortgage, Public Service, Land Revenue Settlements, Forest Administration, Education, *Abkari*, Customs and Usages of the People, Excise, Income-tax, Tariff and Customs, Press, Opium and other Intoxicating Drugs, Stores and Stationery required for the purposes of State, Currency, Post Office, Telegraphs, Survey of Land, Finances, Legal Profession, Famines, Railways, Canals, Companies, Emigration, Marine Administration, Merchants' Rights, Duties and Obligations, Banking, Negotiable Instruments, Treasury, Ports, Medical Administration, Sanitation, and Arms, Carriers, Judicial Administration, the Giving of Encouragement to or the Development of Science, Industries, Commerce, Transfer of Property, Foreign Politics, Public Works, Extradition, Gambling, the Poor, Easements, Lunatics, Army, Navy, Agriculture, Insurances, Physical Education, Factories, the Preservation of Ancient Monuments, Museums and relating to all matters necessary for the Preservation, Efficiency and Development of the Empire.

50. The Financial Statement of the Government of India shall be explained in the Parliament by the Financial Minister two months before the new year, a printed copy of the same given to each Member and a draft of the Statement placed on the editors' table, and circulated among such of the political associations of the country as the Financial Minister may deem fit.

51. The right of discussion of the Financial Statement shall be allowed to each Member of the Parliament, and no item shall be passed as a public charge unless it is voted by the majority.

52. Every Member of Parliament has a right to ask any questions regarding the Government of the Empire.

53. Every Member has a right to submit or propose any resolution and divide the Parliament in respect of any financial discussion or the answer to any question asked.

54. The Parliament may examine the Government of the Empire, and reform the abuses introduced into it.

*The Judicial Functions of the Parliament*

55. The Judicial functions of the Parliament shall be conducted by a Council of Judges called the Privy Council, who shall hold their offices for life unless incapacitated under any laws for the time being in force.

56. The Judges of the Privy Council shall be official members of the Parliament.

57. The Chief Judge of the Privy Council shall be called the Lord High Chancellor of India and the Puisne Judges, the Vice-Chancellors.

58. The Lord High Chancellor and the Vice-Chancellors shall be elected by the Nation in the same manner as the non-official representatives of the Parliament.

59. No one can be a Privy Council Judge unless he shall be a Barrister, Advocate or Pleader of the Privy Council or High Court of not less than 10 years' standing, or a Judge of the High Court of a Province, and unless he possesses the qualifications required of a non-official representative of the people.

60. The President of the Parliament shall be the head of the Privy Council for the time being and in his absence the Lord High Chancellor.

61. From all decrees or orders of the High Court there shall be appeals to the Privy Council.

62. The Privy Council shall possess ordinary Original jurisdiction in the Empire and also extraordinary Appellate, revisional and superintending jurisdiction over all Courts of Justice in the Empire.

*The Executive Functions of the Parliament*

63. For the efficient Executive Administration of the Empire, the following Departments shall be established : (1) Financial ; (2) Legislative ; (3) Educational ; (4) Trade and Commerce ; (5) Ecclesiastical ; (6) Customs ; (7) Excise ; (8) Press ; (9) Judicial ; (10) Stores & Stationery ; (11) Treasury ; (12) Science ; (13) Post Office ; (14) Telegraph ; (15) Railway ; (16) Survey ; (17) Forest ; (18) Public Works ; (19) Local Government ; (20) Marine ; (21) Medical ; (22) Sanitary ; (23) Military ; (24) Foreign ; (25) Agricultural ; (26) Political ; (27) Land Administration ; (28) Irrigation ; (29) General.

64. The Executive Functions of the Parliament shall be conducted by a Cabinet of Ministers consisting of the Prime Minister in charge of the General Administration and 29 other Ministers respectively in charge of the departments as mentioned under clause 63.

65. The functions of the Cabinet are :

(1) To execute laws made by the Parliament and to see that they are administered properly.

Where there arises any doubt as to the interpretation or declaration of the laws, the decisions of the Privy Council shall be binding on the Cabinet, which shall administer laws as interpreted and declared by the Privy Council.



(2) To make Rules and Regulations consistent with the laws of the Parliament.

66. The Cabinet Ministers shall hold their offices during life, unless incapacitated under any law for the time being in force. They shall be elected in the same manner as the non-official members of the Parliament.

67. Any one who is eligible to become a Member of Parliament may become a Cabinet Minister.

*The Local Legislative Power*

68. Each Province of the Empire mentioned in Section 5 shall have a Local Legislative Council and shall be composed of :

- (a) 3 representatives elected by the people for each Division;
- (b) 2 representatives elected by the people for each District;
- (c) 1 representative elected by the people for each Taluka;
- (d) The Governor of the Province;
- (e) 5 Executive Councillors;
- (f) The Secretaries of each Department;
- (g) The Chief Executive Officers;
- (h) The Judges of the High Court; and
- (i) Members chosen to represent the following professions, trades and interests :

*Legal Profession.*—10 Advocates, Barristers or Vakils elected by the Bar;

["Bar" means Advocates, Barristers or Vakils, of the High Court or District Court, practising in Privy Council, High Courts, District Courts or Taluka Courts.]

*Medical Profession.*—10 duly qualified medical practitioners elected by duly qualified medical practitioners;

*Municipalities.*—25 members elected by Municipal Commissioners;

*University.*—10 Fellows elected by Fellows;

*Commerce.*—30 members elected by all Chambers of Commerce.

69. The functions of the Local Legislative Council shall include the (1) making of Rules and Regulations consistent with Parliamentary laws, according to the requirements of the Province, (2) discussing local finances and to vote expenses for the Government of the Province, (3) Examination of the administration of the Province.

70. Each Local Legislative Council shall have a President, who shall be appointed by the Ministry and who shall be called the Governor of the Province to which he shall be appointed.

71. The Members of the Local Legislative Council shall have the same powers as the Members of Parliament with regard to the discussion of the Financial Budget of the Province and the right of interpellation.

72. The Financial Statement of the Local Government shall be explained in the Local Legislative Council by the official in charge of the Local Finances two months before the commencement of the new year, and a

printed copy of the same given to each Member, and a draft of the Statement placed on the editors' table, and circulated among such of the political associations of the country as the officer in charge of the Local Finances may deem fit.

73. The Section 51 regarding the Imperial Financial Statement shall apply to the Provincial Financial Statement.

74. The Governor of the Province shall be the highest administrative authority in the Province.

### *The Local Judicial Power*

75. The highest judicial authority in India shall be vested in the Sovereign and the Parliament of India which shall be exercised through the Privy Council.

76. There shall be established High Courts in India subordinate only to the Parliament, and such other inferior Courts as the High Court may deem it necessary for the efficient Government of India.

77. The Judges of the High Courts shall hold their offices during life, unless incapacitated under any law for the time being in force.

78. The Judicial power of the Courts shall extend to all cases arising in law and equity.

79. The Courts of Justice shall interpret, declare, and enforce when necessary, the laws, rules and regulations passed by the Parliament and the Local Legislative Councils, as described in this Act.

80. Each Province of the Empire shall have one High Court as the highest Court of Justice for that Province subordinate to the Parliament.

81. Each High Court shall have one Chief Justice and as many Puisne Judges as the Parliament may determine.

82. Each High Court shall possess Original jurisdiction in the Province for which it shall be established, and Appellate, extraordinary, revisional and superintending jurisdiction over all Courts subordinate to it.

83. Each District shall have a Court of Justice which shall be called the District Court.

84. Each Taluka shall have a Court of Justice which shall be called the Taluka Court.

85. All Taluka Courts shall be subordinate to the District Court and the High Court, and all District Courts shall be subordinate to the High Court.

86. The High Court Judges shall be either Barristers, Advocates or Vakils of the High Court of not less than 10 years' standing.

87. The District Judges shall be either Barristers, Advocates or Vakils of the High Court of not less than 5 years' standing.

88. Taluka Judges shall be either Barristers, Advocates or Vakils of the High Court of not less than 3 years' standing or District Pleaders of not less than 5 years' standing.

*The Local Executive Power*

89. The highest Executive authority in India shall be vested in the Sovereign and the Parliament of India, which shall be exercised through the Cabinet of Ministers above mentioned.

90. There shall be a Governor for each Province subordinate to the Cabinet of Ministers.

91. The Governor shall have a Local Executive Council of 5 members and shall be assisted in the administration of the Province by the Chief Secretary in charge of General Administration and each of the Secretaries in charge of the Departments mentioned under clause 63, who shall also be *ex-officio* Members of the Local Legislative Council.

92. Each Division shall be in the administrative charge of an official called the Chief Executive Officer, who shall be immediately subordinate to the Governor.

93. Each District shall be in the administrative charge of an official called the District Executive Officer, subordinate to the Chief Executive Officer.

94. Each Taluka shall be in the administrative charge of an official called the Taluka Executive Officer, subordinate to the District and Chief Executive Officer.

95. Each group of villages shall be in the charge of an official who shall be called the Village Officer.

*Miscellaneous*

96. Any Member of the Parliament may introduce a Bill in the Parliament.

97. No Bill shall become law unless it has passed by majority through the Lower House three times and the Upper House three times and unless it has obtained the sanction of the Sovereign.

98. Any Member of the Local Legislative Council may introduce any rule or regulation, which shall have the force of law after having passed three times by the majority.

99. The Non-Official Members of the Parliament of India shall be paid out of the Imperial Treasury salaries at the rate of 500 rupees for each Member per month and the Non-Official Members of the Local Legislative Council shall be paid out of the Local Treasury salaries at the rate of 200 rupees for each Member per month.

100. All citizens are eligible for becoming Members of the Parliament and the Local Legislative Council.

101. There shall be kept one journal of the proceedings of the Parliament, the Local Legislative Councils, the High Courts of Judicature and the Executive Councils and the same shall be published every week, excepting such parts as may in their judgment require secrecy.

102. At the meetings of both Houses of Parliament the President of the Parliament shall direct the business of the meeting.

103. At the meetings of the Local Legislative Council the Governor of the Province shall direct the business of the meeting.

104. The sittings of the Parliament and the Local Legislative Councils and the Courts of Justice shall always be public except in cases where secrecy is essential in the interests of public good.

105. The absolute majority of the votes of the Members present shall decide every question before the Parliament and the Local Legislative Councils.

106. The Upper House shall meet for the conduct of business on the first day of January, April, July and October and such other following days as are necessary for the purpose.

107. The Lower House shall meet for the conduct of business on the first day of February, May, August and November and such other following days as are necessary for the purpose.

108. The Local Legislative Councils shall meet on the 15th day of each month and such other following days as are necessary for the conduct of business.

109. Barristers, Advocates, or Vakils of the High Court may appear to plead before the meetings of Parliament, the Privy Council, High Courts, Ministers, the Local Legislative or Executive Councils and District or Taluka Courts and all other Judicial and Executive Officers on behalf of their clients.

110. No one can be a Member of both the Houses of Parliament at the same time.

111. All State Officials are by virtue of their offices the official representatives of the people.

### *Schedule*

Act	Extent of repeal
Indian Councils Act	Whole

## GOKHALE'S POLITICAL TESTAMENT 1914

*[A few months after the outbreak of the first World War in 1914, G. K. Gokhale prepared a draft scheme of Post-War Reforms which, he felt, could be inaugurated by the Government in response to the growing discontent in the country. The draft scheme came to be known as Gokhale's Political Testament.]*

### PROVINCIAL AUTONOMY

THE GRANT OF Provincial Autonomy foreshadowed in the Delhi Despatch\* would be a fitting concession to make to the people of India at the close of the War. This will involve the two-fold operation of freeing the Provincial Governments on one side from the greater part of the control which is at present exercised over them by the Government of India and the Secretary of State in connection with the internal administration of the country, and substituting, on the other, in place of the control so removed, the control of the representatives of tax-payers through Provincial Legislative Councils. I indicate below in brief outline the form of administration that should be set up in different Provinces to carry out this idea :

- (1) Each Province should have : (1) A Governor appointed from England at the head of the administration, (2) A Cabinet or Executive Council of six members, three of whom should be Englishmen and three Indians with the following portfolios : (a) Home (including law and justice); (b) Finance; (c) Agriculture, Irrigation and Public Works; (d) Education; (e) Local Self-Government (including sanitation and medical relief); (f) Industries and Commerce.
- (2) While members of the Indian Civil Service should be eligible for appointment to the Executive Council, no place in the Council should be reserved for them, the best men available being taken, both English and Indian.
- (3) A Legislative Council of between 75 and 100 Members of whom not less than four-fifths should be elected by different constituencies and interests. Thus, in the Bombay Presidency, roughly speaking,

\*The reference is to the Despatch of August 25, 1911.

each District should return two members, one representing municipalities and the other district and Taluk Boards. The City of Bombay should have about ten members allotted to it. Bodies in the Mofussil like the Karachi Chamber, Ahmedabad mill-owners, Deccan Sardars, should have a member each. Then there would be the special representation of Mahammedans and here and there a member may have to be given to communities like the Lingayats where they are strong. There should be no nominated non-official members except as experts. A few official members may be added by the Governor as experts or to assist in representing the Executive Government.

(4) The relations between the Executive Government and the Legislative Council so constituted should be roughly similar to those between the Imperial Government and the Reichstag in Germany. The Council will have to pass all provincial legislation and its assent will be necessary to additions to or changes in provincial taxation. The Budget, too, will have to come to it for discussion and its resolutions in connection with it, as also on questions of general administration, will have to be given effect to unless vetoed by the Governor. More frequent meetings or longer continuous sittings will also have to be provided for. But the members of the Executive Government shall not depend, individually or collectively, on the support of a majority of the Councils for holding their offices.

(5) The Provincial Government, so reconstituted and working under the control of the Legislative Council as outlined above, should have complete charge of the internal administration of the Province and it should have virtually independent financial powers, the present financial relations between it and the Government of India being largely revised, and to some extent even reversed. The revenue under Salt, Customs, Tributes, Railway, Post, Telegraph and Mint should belong exclusively to the Government of India, the services being Imperial; while that under Land Revenue, including Irrigation, Excise, Forests, Assessed taxes, Stamps and Registration, should belong to the Provincial Government, the services being Provincial. As under this division, the revenue falling to the Provincial Government will be in excess of its existing requirements and that assigned to the Government of India will fall short of its present expenditure, the Provincial Government should be required to make an annual contribution to the Government of India fixed for periods of five years at a time. Subject to this arrangement the Imperial and the Provincial Governments should develop their separate systems of finance, the Provincial Governments being given powers of taxation and borrowing within certain limits.

Such a scheme of Provincial Autonomy will be incomplete unless it is accompanied by (a) liberalizing of the present form of District administration

and (b) a great extension of Local Self-Government. For (a) it will be necessary to abolish the Commissionerships of Divisions, except where special reasons may exist for their being maintained as in Sind and to associate small District Councils, partly elected and partly nominated, with the Collector to whom most of the present powers of the Commissioner could then be transferred—the functions of the Councils being advisory to begin with. For (b) Village Panchayats, partly elected and partly nominated, should be created for villages and groups of villages; and Municipal Boards in towns and Taluk Boards in the Talukas should be made wholly elected bodies, the Provincial Government reserving to itself and exercising stringent powers of control. A portion of the excise revenue should be made over to those bodies so that they may have adequate resources at their disposal for the due performance of their duties. The District being too large an area for efficient Local Self-Government by an honorary agency, the functions of the District Boards should be strictly limited and the Collector should continue to be its *ex-officio* President.

#### THE GOVERNMENT OF INDIA

The Provinces being thus rendered practically autonomous, the Constitution of the Executive Council or the Cabinet of the Viceroy will have to be correspondingly altered. At present there are four members in that Council with portfolios which concern the internal administration of the country—namely, Home, Agriculture, Education, and Industries and Commerce. As all internal administration will now be made over to Provincial Governments and the Government of India will only retain in its hands nominal control to be exercised on very rare occasions, one member to be called Member for the Interior should suffice in place of these four. It will, however, be necessary to create certain other portfolios and I would have the Council consist of the following six members, at least two of whom shall always be Indians : (a) Interior, (b) Finance, (c) Law, (d) Defence, (e) Communications (Railways, Post and Telegraph), and (f) Foreign.

The Legislative Council of the Viceroy should be styled the Legislative Assembly of India. Its membership should be raised to about one hundred to begin with and its powers enlarged; but the principle of an official majority (for which perhaps it will suffice to substitute a nominated majority) should for the present be maintained, until sufficient experience has been gathered of the working of autonomous arrangements for Provinces. This will give the Government of India a reserve power in connection with Provincial administration to be exercised in emergencies. Thus, if a Provincial Legislative Council persistently decline to pass legislation which the Government regard to be essential in the vital interests of the Province, it could be passed by the Government of India in its Legislative Assembly over the head of the Province. Such occasions would

be extremely rare, but the reserve power will give a sense of security to the authorities and will induce them to enter on the great experiment of Provincial Autonomy with greater readiness. Subject to this principle of an official or nominated majority being for the present maintained, the Assembly should have increased opportunities of influencing the policy of the Government by discussion, questions connected with the Army and Navy (to be now created) being placed on a level with other questions. In fiscal matters the Government of India so constituted should be freed from the control of the Secretary of State whose control in other matters too should be largely reduced, his Council being abolished and his position steadily approximated to that of the Secretary of State for the Colonies.

Commissions in the Army and Navy must now be given to Indians, with proper facilities for military and naval instruction.

German East Africa, if conquered from the Germans, should be reserved for Indian colonization and should be handed over to the Government of India.



## MEMORANDUM ON POST-WAR REFORMS

(By nineteen members of the Imperial Legislative Council)  
1916

*[In October/November, 1916, nineteen non-official elected members of the Imperial Legislative Council—as the Central Legislature in India was then called—sent up to the Viceroy a memorandum outlining a scheme of self-government for India. The total number of non-official members in the Legislative Council at that time was twenty-seven. Of these, the two nominated Anglo-Indian representatives were not consulted; three were absent at the time of the submission of the memorandum; and three others, namely, Nawab Syed Ali Chowdhury, Abdur Rahman and Sardar Sunder Singh Majithia, declined to subscribe to it. The memorandum was described as the 'Memorandum of the Nineteen'. The signatories to the memorandum were: Manindra Chandra Nandy of Kasimbazar, Dinshaw E. Wacha, Bhupendranath Basu, Bishan Dutt Shukul, Madan Mohan Malaviya, K. V. Rangaswamiengar, Mazharul Haque, V. S. Srinivasa Sastri, Tej Bahadur Sapru, Ibrahim Rahimtoola, B. Narasimheswara Sarma, Mir Asad Ali, Kamini Kumar Chanda, Krishna Sahay, R. N. Bhanja Deo of Kanika, M. B. Dadabhoy, Sita Nath Roy, Mohamed Ali Mohamed, M. A. Jinnah.]*

THERE IS NO DOUBT that the termination of the War will see a great advance in the ideals of Government all over the civilised world and especially in the British Empire, which entered into the struggle in defence of the liberties of weak and small nationalities and is pouring forth its richest blood and treasure in upholding the cause of justice and humanity in the international relations of the world. India has borne her part in this struggle and cannot remain unaffected by the new spirit of change for a better state of things. Expectations have been raised in this country and hopes held out that, after the War, the problems of Indian administration will be looked at from a new angle of vision. The people of India have good reasons to be grateful to England for the great progress in her material resources and the widening of her intellectual and political outlook under British rule, and for the steady, if slow, advance in her national life commencing with the Charter Act of India of 1833.

Up to 1909, the Government of India was conducted by a bureaucracy almost entirely non-Indian in its composition and not responsible to the

people of India. The reforms of 1909 for the first time introduced an Indian element in the direction of affairs in the administration of India. This element was of a very limited character. The Indian people accepted it as an indication on the part of Government of a desire to admit the Indians into the inner counsels of the Indian Empire. So far as the Legislative Councils are concerned, the numbers of non-official members were merely enlarged with increased facilities for debate and interpellation. The Supreme Legislative Council retained an absolute official majority, and in the Provincial Legislative Councils, where a non-official majority was allowed, such majority included nominated members and the European representatives. In measures largely affecting the people, whether of legislation or taxation, by which Europeans were not directly affected, the European members would naturally support the Government, and the nominated members, being nominees of Government, would be inclined to take the same side. Past experience has shown that this has actually happened on various occasions. The non-official majorities, therefore, in the Provincial Councils have proved largely illusory and give no real power to the representatives of the people. The Legislative Councils, whether Supreme or Provincial, are at present nothing but advisory bodies without any power of effective control over the Government, Imperial or Provincial. The people or their representatives are practically as little associated with the real government of the country as they were before the reforms, except for the introduction of the Indian element in the Executive Councils, where again the nomination rests entirely with the Government, the people having no voice in the selection of the Indian members.

The object which the Government had in view in introducing the reforms of 1909 was, as expressed by the Prime Minister in his speech in the House of Commons on the second reading of the Indian Councils Bill (1st April, 1909), that "it was most desirable in the circumstances to give to the people of India the feeling that these Legislative Councils are not mere automatons, the wires of which are pulled by the official hierarchy." This object, it is submitted, has not been attained. Apart from this question of the constitution of the Legislative and Executive Councils, the people labour under certain grave disabilities, which not only prevent the utilisation, but also lead to the wastage, of what is best in them, and are positively derogatory to their sense of National self-respect. The Arms Act which excludes from its operation Europeans and Anglo-Indians and applies only to the pure natives of the country, the disqualification of Indians for forming or joining Volunteer Corps and their exclusion from the commissioned ranks of the Army, are disabilities which are looked upon with an irritating sense of racial differentiation. It would be bad enough if these were mere disabilities. Restrictions and prohibitions regarding the possession and use of arms have tended to emasculate the civil population in India, and expose them to serious danger.

The position of Indians in India is practically this, that they have no real part or share in the direction of the Government of the country, and are placed under very great and galling disabilities from which the other members of the British Empire are exempt, and which have reduced them to a state of utter helplessness. The existence, moreover, of the system of indentured emigration gives to the British Colonies and the outside world the impression that Indians, as a whole, are no better than indentured coolies, who are looked upon as very little, if at all, above the slave. The present state of things makes the Indians feel that, though theoretically they are equal subjects of the King, they hold a very inferior position in the British Empire. Other Asiatic races also hold the same, if not a worse, view about India and her status in the Empire. Humiliating as this position of inferiority is to the Indian mind, it is almost unbearable to the youth of India whose outlook is broadened by education and travel in foreign parts where they come in contact with other free races. In the face of these grievances and disabilities, what has sustained the people is the hope and faith inspired by promises and assurances of fair and equal treatment which have been held out from time to time by our Sovereigns and British statesmen of high standing. In the crisis we are now going through, the Indian people have sunk domestic differences between themselves and the Government, and have faithfully and loyally stood by the Empire. The Indian soldiers were eager to go to the battlefields of Europe, not as mercenary troops but as free citizens of the British Empire which required their services, and her civilian population was animated by one desire, namely, to stand by England in the hour of her need. Peace and tranquillity reigned throughout India when she was practically denuded of British and Indian troops.

The Prime Minister of England, while voicing the sentiments of the English people in regard to India's part in this great War, spoke of Indians as "the joint and equal custodians of one common interest and future." India does not claim any reward for her loyalty but she has a right to expect that the want of confidence on the part of Government, to which she not unnaturally ascribes her present state, should now be a thing of the past and that she should no longer occupy a position of subordination but one of comradeship. This would assure the Indian people that England is ready and willing to help them to attain Self-Government under the aegis of the British Crown, and thus discharge the noble mission which she has undertaken and to which she has so often given voluntary expression through her rulers and statesmen. What is wanted is not merely good government or efficient administration, but government that is acceptable to the people because it is responsible to them. This is what, India understands, would constitute the changed angle of vision.

If, after the termination of the War, the position of India practically remains what it was before, and there is no material change in it, it will

undoubtedly cause bitter disappointment and great discontent in the country, and the beneficent effects of participation in common danger, overcome by common effort, will soon disappear, leaving no record behind save the painful memory of unrealised expectations. We feel sure that the Government is also alive to the situation and is contemplating measures of reform in the administration of the country. We feel that we should avail ourselves of this opportunity to respectfully offer to Government our humble suggestions as to the lines on which these reforms should proceed. They, must, in our opinion, go to the root of the matter. They must give to the people real and effective participation in the Government of the country, and also remove those irritating disabilities as regards the possession of arms and a military career, which indicate want of confidence in the people and place them in a position of inferiority and helplessness. With this view, we would take the liberty to suggest the following measures for consideration and adoption :

- (1) In all the Executive Councils, Provincial and Imperial, half the number of members should be Indians; the European element in the Executive Councils should, as far as possible, be nominated from the ranks of men trained and educated in the public life of England, so that India may have the benefit of a wider outlook and larger experience of the outside world. It is not absolutely essential that the members of the Executive Councils, Indians or Europeans, should have experience of actual administration, for, as in the case of ministers in England, the assistance of the permanent officials of the departments is always available to them. As regards Indians, we venture to say that a sufficient number of qualified Indians, who can worthily fill the office of members of the Executive Council and hold portfolios, is always available. Our short experience in this direction has shown how Indians like Sir S. P. Sinha, Sir Syed Ali Imam, the late Mr. Krishnaswami Iyer, Sir Shams-ul-Huda and Sir Sankaran Nair have maintained a high level of administrative ability in the discharge of their duties. Moreover, it is well known that the Native States, where Indians have opportunities, have produced renowned administrators like Sir Salar Jang, Sir T. Madhava Rao, Sir Seshadri Aiyar, Dewan Bahadur Raghunath Rao, not to mention the present administrators in the various Native States of India. The statutory obligation, now existing, that three of the members of the Supreme Executive Council shall be selected from the public services in India, and similar provisions with regard to Provincial Councils, should be removed. The elected representatives of the people should have a voice in the selection of the Indian members of the Executive Councils and for that purpose a principle of election should be adopted.

- (2) All the Legislative Councils in India should have a substantial majority of elected representatives. These representatives, we feel sure, will watch and safeguard the interests of the masses and the agricultural population with whom they are in closer touch than any European officer, however sympathetic, can possibly be. The proceedings of the various Legislative Councils and the Indian National Congress and the Muslim League bear ample testimony to the solicitude of the educated Indians for the welfare of the masses and their acquaintance with their wants and wishes. The franchise should be broadened and extended directly to the people; Muhammadans or Hindus, wherever they are in a minority, being given proper and adequate representation, having regard to their numerical strength and position.
- (3) The total number of the members of the Supreme Council should be not less than 150, and of the Provincial Councils not less than 100 for the major Provinces, and not less than 60 to 75 for the minor Provinces.
- (4) The Budget should be passed in the shape of money bills, fiscal autonomy being conceded to India.
- (5) The Imperial Legislative Council should have power to legislate on, and discuss and pass resolutions relating to, all matters of Indian administration, and the Provincial Councils should have similar powers with regard to Provincial administrations, save and except that the direction of military affairs, of foreign relations, declarations of war, the making of peace, and the entering into treaties, other than commercial, should not be vested in the Government of India. As a safeguard, the Governor-General in Council or the Governor in Council, as the case may be, should have the right of veto, which, however, should be exercised subject to certain conditions and limitations.
- (6) The Council of the Secretary of State should be abolished. The Secretary of State should, as far as possible, hold in relation to the Government of India a position similar to that which the Secretary of State for the Colonies holds in relation to the Colonies. The Secretary of State should be assisted by two permanent Under-Secretaries, one of whom should be an Indian. The salaries of the Secretary and the Under-Secretaries should be placed on the British estimates.
- (7) In any scheme of Imperial Federation, India should be given through her chosen representatives a place similar to that of the Self-Governing Dominions.
- (8) The Provincial Governments should be made autonomous, as stated in the Government of India's despatch, dated 25th August, 1911.

- (9) The United Provinces, as well as the other major Provinces, should have a Governor brought from the United Kingdom and should have an Executive Council.
- (10) A full measure of Local Self-Government should be immediately granted.
- (11) The right to carry arms should be granted to Indians on the same conditions as to Europeans.
- (12) Indians should be allowed to enlist as volunteers and units of a territorial army established in India.
- (13) Commissions in the army should be given to Indian youths under conditions similar to those applicable to Europeans.

## THE CONGRESS-LEAGUE SCHEME

December 1916

[The Indian National Congress had, at its twenty-second session held at Calcutta in 1906 under the presidentship of Dadabhai Naoroji, demanded that the system of government obtaining in the self-governing British colonies should be extended to India. Self-government or Swaraj, Dadabhai Naoroji said, was "the only and chief remedy" for the economic ills and poverty of the Indian people. The All-India Muslim League also, at its Lucknow session in 1913, accepted the national ideal of self-government and the necessity for harmonious co-operation and joint concerted action with the National Congress. The Lucknow session was dominated by the younger generation of educated Muslims and was for the first time attended by M. A. Jinnah who had so far kept aloof from the League on grounds of its being communal. In the same year (1913), the twenty-eighth session of the Congress, which was held at Karachi and was attended, amongst others, by Jinnah as a delegate from Bombay, warmly appreciated the change in the policy of the Muslim League and heartily welcomed its adoption of the ideal of self-government for India. The next annual session of the Congress held at Madras in 1914 reiterated the demand for self-government and specifically asked for the removal of all invidious distinctions in India and abroad between His Majesty's Indian and other subjects by redeeming the pledges of provincial autonomy and by taking such measures as might be necessary for the recognition of India as a component part of the federated Empire, in the full and free enjoyment of the rights belonging to that status.]

It is significant that even before the first World War began, self-government for India within the British Empire had become the common goal both of the Congress and the League. The demand for self-government assumed a new significance through the vigorous campaign for Home Rule inaugurated by Mrs. Annie Besant and Lokamanya Bal Gangadhar Tilak. On Jinnah's initiative, the 1915 annual sessions of both the Congress and the Muslim League were held at Bombay. It was resolved by both the organizations to collaborate in formulating a common scheme of post-war reforms and in pressing for its adoption by the Government. Committees appointed for the purpose by the Congress and the League met at Calcutta and Lucknow and formulated a joint scheme of reforms. The scheme was enthusiastically approved by both the Muslim League and the Congress at their annual sessions at Lucknow in December 1916. It came to be popularly known as the 'Congress-League Scheme'.]

## I—PROVINCIAL LEGISLATIVE COUNCILS

PROVINCIAL LEGISLATIVE COUNCILS shall consist of four-fifths elected and of one-fifth nominated members.

2. There shall be not less than 125 members in the major provinces, and from 50 to 75 in the minor provinces.

3. The members of Councils should be elected by the people on as broad a franchise as possible.

4. Adequate provision should be made for the representation of important minorities by election, and the Mohamedans should be represented through special electorates on the Provincial Legislative Councils in the following proportions:

Punjab . . . . .	One-half the elected Members
United Provinces . . . . .	30% „ „ „
Bengal . . . . .	40% „ „ „
Bihar . . . . .	25% „ „ „
Central Provinces . . . . .	15% „ „ „
Madras . . . . .	15% „ „ „
Bombay . . . . .	One-third „ „ „

Provided that no Mohamedan shall participate in any of the other elections to the Imperial or Provincial Legislative Councils, save and except those by electorates representing special interests:

Provided that further no bill, nor any clause thereof, nor a resolution introduced by non-official members affecting one or the other community, which question is to be determined by the members of that community in the Legislative Council concerned, shall be proceeded with, if three-fourths of the members of that community in the particular Council, Imperial or Provincial, oppose the bill or any claim thereof or the resolution.

5. The head of the Provincial Government should not be the President of the Legislative Council, but the Council should have the right of electing its President.

6. The right of asking supplementary questions should not be restricted to the member putting the original question, but should be allowed to be exercised by any other member.

7. (a) Except customs, post, telegraph, mint, salt, opium, railways, army and navy, and tributes from Indian States, all other sources of revenue should be provincial.

(b) There should be no divided heads of revenues. The Government of India should be provided with fixed contributions from the Provincial Governments, such fixed contributions being liable to revision when extraordinary and unforeseen contingencies render such revision necessary.

(c) The Provincial Council should have full authority to deal with all matters affecting the internal administration of the province including the



power to raise loans, to impose taxation, and to vote on the Budget. All items of expenditure, and all proposals concerning ways and means for raising the necessary revenue, should be embodied in Bills and submitted to the Provincial Council for adoption.

(d) Resolutions on all matters within the purview of the Provincial Government should be allowed for discussion in accordance with rules made in that behalf by the Council itself.

(e) A resolution passed by the Provincial Legislative Council shall be binding on the Executive Government, unless vetoed by the Governor in Council, provided however that if the resolution is again passed by the Council after an interval of not less than one year, it must be given effect to.

(f) A motion for adjournment may be brought forward for the discussion of a definite matter of urgent public importance, if supported by not less than one-eighth of the members present.

8. A special meeting of the Provincial Council may be summoned on requisition by not less than one-eighth of the members.

9. A Bill, other than a Money Bill, may be introduced in Council in accordance with rules made in that behalf by the Council itself, and the consent of the Government should not be required therefor.

10. All Bills passed by Provincial Legislatures shall have to receive the assent of the Governor before they become law, but may be vetoed by the Governor-General.

11. The term of office of the members shall be five years.

## II—PROVINCIAL GOVERNMENTS

1. The head of every Provincial Government shall be a Governor who shall not ordinarily belong to the Indian Civil Service or any of the permanent services.

2. There shall be in every Province an Executive Council which, with the Governor, shall constitute the Executive Government of the Province.

3. Members of the Indian Civil Service shall not ordinarily be appointed to the Executive Councils.

4. Not less than one-half of the members of the Executive Council shall consist of Indians to be elected by the elected members of the Provincial Legislative Council.

5. The term of office of the members shall be five years.

## III—IMPERIAL LEGISLATIVE COUNCIL

1. The strength of the Imperial Legislative Council shall be 150.

2. Four-fifths of the members shall be elected.

3. The franchise for the Imperial Legislative Council should be widened as far as possible on the lines of electorates for Mohammedans for the

Provincial Legislative Councils, and the elected members of the Provincial Legislative Councils should also form an electorate for the return of members to the Imperial Legislative Council.

4. One-third of the Indian elected members should be Mohammedans elected by separate Mohammedan electorates in the several Provinces, in the proportion, as nearly as may be, in which they are represented in the Provincial Legislative Councils by separate Mohammedan electorates *vide* proviso to section 1, clause 4.

5. The President of the Council shall be elected by the Council itself.

6. The right of asking supplementary questions shall not be restricted to the member putting the original question but should be allowed to be exercised by any other member.

7. A special meeting of the Council may be summoned on a requisition by not less than one-eighth of the members.

8. A Bill, other than a Money Bill, may be introduced in Council in accordance with rules made in that behalf by the Council itself, and the consent of the Executive Government should not be required therefor.

9. All Bills passed by the Council shall have to receive the assent of the Governor-General before they become law.

10. All financial proposals relating to sources of income and items of expenditure shall be embodied in Bills. Every such Bill and the Budget as a whole shall be submitted for the vote of the Imperial Legislative Council.

11. The term of office of members shall be five years.

12. The matters mentioned herein below shall be exclusively under the control of the Imperial Legislative Council :

(a) Matters in regard to which uniform legislation for the whole of India is desirable.

(b) Provincial legislation in so far as it may affect inter-provincial fiscal relations.

(c) Questions affecting purely Imperial Revenue, excepting tributes from Indian States.

(d) Questions affecting purely Imperial expenditure, except that no resolutions of the Imperial Legislative Council shall be binding on the Governor-General in Council in respect of military charges for the defence of the country.

(e) The right of revising Indian tariffs and customs—duties, of imposing, altering, or removing any tax or cess, modifying the existing system of currency and banking, and getting any aids or bounties to any or all deserving and nascent industries of the country.

(f) Resolutions on all matters relating to the administration of the country as a whole.

13. A Resolution passed by the Legislative Council should be binding on the Executive Government, unless vetoed by the Governor-General in

Council; provided however that if the resolution is again passed by the Council after an interval of not less than one year, it must be given effect to.

14. A motion for adjournment may be brought forward for the discussion of a definite matter of urgent public importance, if supported by not less than one-eighth of the members present.

15. When the Crown chooses to exercise its power of veto in regard to a Bill passed by a Provincial Legislative Council, or by the Imperial Legislative Council, it should be exercised within twelve months from the date on which it is passed, and the Bill shall cease to have effect as from the date on which the fact of such veto is made known to the Legislative Council concerned.

16. The Imperial Legislative Council shall have no power to interfere with the Government of India's direction of the military affairs and the foreign and political relations of India, including the declaration of war, the making of peace and entering into treaties.

#### IV—THE GOVERNMENT OF INDIA

1. The Governor-General of India will be the head of the Government of India.

2. He will have an Executive Council, half of whom shall be Indians.

3. The Indian members should be elected by the elected members of the Imperial Legislative Council.

4. Members of the Indian Civil Service shall not ordinarily be appointed to the Executive Council of the Governor-General.

5. The power of making appointments with Imperial Civil Services shall vest in the Government of India, as constituted under this scheme, due regard being paid to existing interests, subject to any laws that may be made by the Imperial Legislative Council.

6. The Government of India shall not ordinarily interfere in the local affairs of a province, and powers not specially given to Provincial Governments, shall be deemed to be vested in the former. The authority of the Government of India will ordinarily be limited to general supervision and superintendence over the Provincial Governments.

7. In legislative and administrative matters the Government of India as constituted under this scheme, shall as far as possible, be independent of the Secretary of State.

8. A system of independent audit of the accounts of the Government of India should be instituted.

#### V—THE SECRETARY OF STATE IN COUNCIL

1. The Council of the Secretary of State for India should be abolished.

2. The salary of the Secretary of State should be placed in British Estimates.

3. The Secretary of State should, as far as possible, occupy the same position in relation to the Government of India, as the Secretary of State for the Colonies does in relation to the Governments of self-governing Dominions.

4. The Secretary of State for India should be assisted by the two permanent Under-Secretaries, one of whom should always be an Indian.

#### VI—INDIA AND THE EMPIRE

1. In any Council or other body which may be constituted or convened for the settlement or control of Imperial affairs, India shall be adequately represented in like manner with the Dominions and with equal rights.

2. Indians should be placed on a footing of equality in respect of status and rights of citizenship with other subjects of His Majesty the King throughout the Empire.

#### VII—MILITARY AND OTHER MATTERS

1. The military and naval services of His Majesty both in their commissioned and non-commissioned ranks, should be thrown open to Indians and adequate provision should be made for their selection, training and instruction in India.

2. Indians should be allowed to enlist as volunteers.

3. Executive Officers in India shall have no judicial powers entrusted to them and the judiciary in every province shall be placed under the highest Court of that province.

# 6

## CONGRESS RESOLUTION ON SELF-DETERMINATION December 1918

*[At the thirty-third session of the Indian National Congress held at Delhi on December 26—31, 1918, Mrs. Annie Besant moved a resolution demanding the application of the principle of self-determination to India. The resolution was, after a brief discussion, carried unanimously. The text of the resolution is reproduced below.]*

IN VIEW OF the pronouncement of President Wilson, Mr. Lloyd George, and other British statesmen, that to ensure the future peace of the world, the principle of Self-Determination should be applied to all progressive nations,

Be it resolved—

1. That this Congress claims recognition of India by the British Parliament and by the Peace Conference as one of the progressive Nations to whom the principle of Self-Determination should be applied.
2. That in the practical application of the principle in India the first step should be—
  - (a) the removal of all hindrances to free discussion, and therefore the immediate repeal of all laws, regulations and ordinances restricting the free discussion of political questions whether in the press, private or public meeting, or otherwise, so that the legitimate aspirations and opinion of all residents in India may be fearlessly expressed; further, the abolition of the laws, regulations, and ordinances, which confer on the Executive the power to arrest, detain, intern, extern, or imprison any British subject in India, outside the processes of ordinary civil or criminal law, and the assimilation of the law of sedition to that of England.
  - (b) The passing of an Act of Parliament which will establish at an early date complete Responsible Government in India.
  - (c) When complete Responsible Government shall be thus established, the final authority in all internal affairs shall be the Supreme Legislative Assembly as voicing the will of the Indian Nation.

Resolved further—

- (d) That in the reconstruction of Imperial polity, whether in matters affecting the inner relations of the nations constituting it, in questions of foreign policy or in the League of Nations, India shall be accorded the same position as the Self-Governing Dominions.

## GANDHIJI ON SWARAJ

### January 1922

*[In an article entitled 'Independence' published in 'Young India' of January 5, 1922, Gandhiji observed that Swaraj\* would be a declaration of the will of the people of India expressed through her freely chosen representatives. The article is reproduced below.]*

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INDIA'S GREATEST GLORY will consist not in regarding Englishmen as her implacable enemies fit only to be turned out of India at the first available opportunity but in turning them into friends and partners in a new commonwealth of nations in the place of an Empire based upon exploitation of the weaker or undeveloped nations and races of the earth and therefore finally upon force.

Let us see clearly what *Swaraj* together with the British connection means. It means undoubtedly India's ability to declare her independence if she wishes. *Swaraj* therefore will not be a free gift of the British Parliament. It will be a declaration of India's full self-expression. That it will be expressed through an Act of Parliament is true. But it will be merely a courteous ratification of the declared wish of the people of India even as it was in the case of the Union of South Africa. Not an unnecessary adverb in the Union scheme could be altered by the House of Commons. The ratification in our case will be of a treaty to which Britain will be party.

Such *Swaraj* may not come this year, may not come within our generation. But I have contemplated nothing less. The British Parliament, when the settlement comes, will ratify the wishes of the people of India as expressed not through the bureaucracy but through her freely chosen representatives.

*Swaraj* can never be a free gift by one nation to another. It is a treasure to be purchased with a nation's best blood. It will cease to be a gift when we have paid dearly for it. The Viceroy was confused when he said that *Swaraj* would have to come from the Parliament unless it came by the sword. He paid no compliment to his country when he

\*The literary meaning of *Swaraj* is self-government.

allowed his audience to infer that England was incapable of listening to the moral pressure of suffering, and he insulted the intelligence of his audience if he wished it to understand that the British Parliament would give *Swaraj* when it wished irrespective of India's desires and aspirations. The fact is that *Swaraj* will be a fruit of incessant labour, suffering beyond measure.

But His Excellency is unused to any substitute for the sword and therefore does probably think that by exercising our debating skill in the legislative councils, some day or other we shall be able to impress the British Parliament with the desirability of granting us *Swaraj*. He will soon learn that there is a better and more effective substitute for the sword and that is civil disobedience. It is daily becoming increasingly clear that civil disobedience will afford the course of suffering through which India must pass before she comes to her own.

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## THE NATIONAL DEMAND

February 1924

*[On February 5, 1924, T. Rangachariar moved a resolution in the Central Legislative Assembly suggesting early revision of the Government of India Act, 1919, so as to secure for India "full self-governing dominion status within the British Empire and provincial autonomy in the Provinces". When the resolution was taken up for discussion on February 8, Motilal Nehru moved a substitute resolution which was eventually adopted by the House on February 18, 1924, by an overwhelming majority—76 members voting for and 48 (23 officials and 25 non-officials) voting against. The adoption of this resolution, which later became famous as the 'National Demand', was a historic event inasmuch as the Central Legislature had, for the first time, lent its support to the growing demand that the future constitution of India should be framed by Indians themselves. The text of the resolution, as adopted, is reproduced below. (Also see document No. 9)]*

THIS ASSEMBLY RECOMMENDS to the Governor-General in Council to take steps to have the Government of India Act revised with a view to establish full responsible Government in India, and for the said purpose:

- (a) to summon, at an early date, a representative Round Table Conference to recommend, with due regard to the protection of the rights and interests of important minorities, the scheme of a constitution for India; and
- (b) after dissolving the Central Legislature to place the said scheme before a newly elected Indian Legislature for its approval, and submit the same to the British Parliament to be embodied in a Statute.

## REPORT OF THE REFORMS ENQUIRY COMMITTEE (Minority Report) December 1924

*[The adoption of the 'National Demand' resolution by the Central Legislative Assembly (see Document No. 8) was followed by the appointment of a Reforms Enquiry Committee under the chairmanship of Alexander Muddiman to enquire into the difficulties arising from, or defects inherent in, the working of the Government of India Act, and to investigate the feasibility of securing remedies for such difficulties or defects, consistent with the structure, policy and purpose of the Act. The Committee submitted its report on December 3, 1924. The majority of the Committee were satisfied that the 'existing Constitution' was affording valuable political experience and were content to suggest some minor changes for improving the machinery of government. But, in a separate minority report, which reflected the nationalist point of view, Tej Bahadur Sapru, Sivaswami Aiyer, M. A. Jinnah and R. P. Paranjpye maintained that the existing system had completely failed because of inherent defects and required radical alteration. Chapter XII of the Minority Report, setting out their main conclusions, is reproduced below. (Also see Document No. 10.)]*

HAVING EXPRESSED OUR views in detail on the working of the present system, its inherent constitutional defects and the practical difficulties experienced in its working, we shall now briefly submit our conclusions. While we agree with the majority that the constitution, as a whole, requires to be worked by reasonable men in a reasonable spirit if dead-locks are not to ensue, we venture to think that this will hold good in the case of any other constitution. In our opinion, the system of Dyarchy\* was during the first three years everywhere worked in the Legislatures by men most of whom were professedly its friends and who generally speaking tried to

\*Under the system of 'dyarchy', introduced by the Government of India Act, 1919, provincial subjects were divided into two parts—'transferred' and 'reserved'. In the administration of the transferred subjects the Governor was normally guided by the advice of 'popular' ministers; the reserved subjects were administered by the Governor in association with Executive Councillors who owed no responsibility to the legislature.

work it in that spirit of reasonableness which is referred to by the majority of our colleagues, and it is no exaggeration to say—indeed this is also the testimony of several local Governments which we have quoted above,—that generally a spirit of harmony and co-operation prevailed between the Legislature and the Executive, notwithstanding the fact that the atmosphere outside was for sometime markedly unfavourable. The Indian Ministers and Members of Executive Councils also, upon whom new opportunities of service were conferred, appear to us to have been within the sphere of their Executive duties, equally eager to work the Constitution in the same spirit of reasonableness, and yet differing from the majority of our colleagues we have been forced to the conclusion that the present system has failed and in our opinion it is incapable of yielding better results in future. The system has been severely tested during the course of this year and its practical breakdown in two provinces, viz., Bengal and the Central Provinces as a result of the opinions of the majority of the members of the Councils of those two provinces who refuse to believe in the efficacy of Dyarchy and the tension prevailing in the other Legislatures for similar reasons, point to the conclusion that the constitution requires being overhauled. It has failed in our opinion for several reasons : (1) There are the inherent defects of the constitution which though theoretically obvious at its inception have now been clearly shown by actual experience to exist. (2) The Ministers' position has not been one of real responsibility. (3) While in a few provinces the practice of effective joint deliberation between the two halves of the Government has been followed, in several of them it has not been. (4) Excepting to a partial extent in Madras, almost everywhere else the Ministers have been dealt with individually by Governors and not on the footing of collective responsibility. (5) The close inter-connection between the subjects of administration which have been divided into 'reserved' and 'transferred' has made it extremely difficult for Legislatures at times to make in practice a distinction between the two sections of the Government with the result that the policy and administration of the Reserved half of the Government have not infrequently been potent factors in determining the attitude of the Legislatures towards the Ministers and have also in our opinion prejudiced the growth and strength of parties in the Council. (6) The Meston Award\* has crippled the resources of the provinces. It has been the corner-stone of the entire Financial system, and it has prevented Ministers from developing nation-building Departments to the extent which would have enabled them to produce any substantial results. (7) The defects of the Rules which we have noticed before and the constitution and the working of the Finance Departments have put a severe strain on the system.

\*Under the Meston Award each of the Provincial Governments had to contribute certain sums of money to the Central Government.

The criticism which the Montagu-Chelmsford Report made of the Congress-League Scheme has been demonstrated to be true in actual experience of the defects of having an irremovable Executive with an elected majority in the Legislature as is the case in the Legislative Assembly under the present Constitution : "An Executive which is independent of its Legislature" says the Report "as the Indian Executives have hitherto been can carry on the Government in virtue of authority derived from without; a party Executive can govern because it interprets the will of the people as represented by the Assembly, but wherever, as in Canada or Malta, attempts have been made to set up an irremovable Executive and a popular Assembly, acute conflict has ensued and has resulted either in advance to popular government or a return to autocracy". It is scarcely necessary to point out that since the above passage was written, responsible government has been introduced in Malta with certain reservations relating to matters of Imperial interests.

We think that the Bihar Government has correctly summed up the position in the provinces by saying that Dyarchy is working 'creakily' and 'minor remedies may cure a creak or two.' We have examined in detail the sections of the Government of India Act and the Rules made thereunder with a view to see how far 'creaks' discovered can be 'cured'. We are satisfied that this process, though it may lead to some improvement of the administrative machinery in some respects, will not produce any substantial results. We do not think that the suggested amendments if effected will afford 'valuable training towards responsible government' or will provide any solution of the difficulties which we have discussed in our chapter on political conditions, or that they will strengthen the position of the Provincial Governments, in relation to their Legislatures or that of the Central Government in relation to the Assembly. The majority of our colleagues say that no alternative transitional system has been placed before us. We think that no such alternative transitional system can be devised which can satisfactorily solve the administrative or political difficulties which have been brought to our notice. To our mind the proper question to ask is not whether any *alternative transitional* system can be devised but whether the constitution should not be put on a permanent basis, with provisions for automatic progress in the future so as to secure stability in the government and willing co-operation of the people. We can only express the hope that a serious attempt may be made at an early date to solve the question. That this attempt should be made — whether by the appointment of a Royal Commission with freer terms of reference and larger scope of enquiry than ours or by any other agency — is a question which we earnestly commend to the notice of the Government.

## THE NATIONAL DEMAND

September 1925

*[On September 7, 1925, when the Central Legislative Assembly was considering an official resolution recommending to the Governor-General in Council that he do accept the principle underlying the majority report of the Reforms Enquiry Committee (see Document No. 9—Note), Motilal Nehru moved an amendment which sought to reiterate in a more elaborate form the National Demand resolution adopted in 1924. The amendment, which was adopted by the House on September 8 by a majority of 45 to 14, is reproduced below.]*

### (I) MOTILAL NEHRU'S AMENDMENT TO THE OFFICIAL MOTION ON THE REFORMS ENQUIRY COMMITTEE REPORT

THIS ASSEMBLY WHILE confirming and reiterating the demand contained in the Resolution passed by it on the 18th February, 1924, recommends to the Governor-General in Council that he be pleased to take immediate steps to move His Majesty's Government to make a declaration in Parliament embodying the following fundamental changes in the present constitutional machinery and administration of India :

- (a) The Revenues of India and all property vested in or arising or accruing from the property or rights vested in His Majesty under the Government of India Act, 1858, or the present Act, or received by the Secretary of State in Council under any of the said Acts shall hereafter vest in the Governor-General in Council for the purposes of the Government of India.
- (b) The Governor-General in Council shall be responsible to the Indian Legislature and subject to such responsibility shall have the power to control the expenditure of the Revenues of India and make such grants and appropriations of any part of those Revenues or of any other property as is at present under the control or disposal of the Secretary of State for India in Council, save and except the following which shall for a fixed term of years remain under the control of the Secretary of State for India :
  - (i) Expenditure on the Military Services up to a fixed limit.

- (ii) Expenditure classed as political and foreign.
- (iii) The payments of all debts and liabilities hitherto lawfully contracted and incurred by the Secretary of State for India in Council on account of the Government of India.
- (c) The Council of the Secretary of State for India shall be abolished, and the position and functions of the Secretary of State for India shall be assimilated to those of the Secretary of State for the Self-Governing Dominions, save as otherwise provided in Clause (b).
- (d) The Indian Army shall be nationalised within a reasonably short and definite period of time and Indians shall be admitted for Service in all arms of defence and for that purpose the Governor-General and the Commander-in-Chief shall be assisted by a Minister responsible to the Assembly.
- (e) The Central and Provincial Legislature shall consist entirely of members elected by constituencies formed on as wide a franchise as possible.
- (f) The principle of responsibility to the Legislature shall be introduced in all the branches of administration of the Central Government, subject to transitional reservations and residuary powers in the Governor-General in respect of the control of the Military and Foreign and Political affairs for a fixed term of years :  
Provided that during the said fixed term the proposals of the Governor-General in Council for the appropriation of any revenue or moneys for military or other expenditure classified as "Defence" shall be submitted to the vote of the Legislature, but that the Governor-General in Council shall have power, notwithstanding the vote of the Assembly, to appropriate up to a fixed maximum any sum he may consider necessary for such expenditure and in the event of a war to authorise such expenditure as may be considered necessary exceeding the maximum so fixed.
- (g) The present system of Dyarchy in the Provinces shall be abolished and replaced by Unitary and Autonomous Responsible Governments, subject to the general control and residuary powers of the Central Government in inter-provincial and all-India matters.
- (h) The Indian Legislature shall, after the expiry of the fixed term of years, referred to in clauses (b) and (f), have full powers to make such amendments in the Constitution of India from time to time as may appear to it necessary or desirable ;

This Assembly further recommends to the Governor-General in Council that necessary steps be taken :

- (a) to constitute in consultation with the Legislative Assembly a convention, round table conference or other suitable agency, adequately representative of all Indian, European and Anglo-Indian interests to frame with due regard to the interests of minorities a detailed scheme

based on the above principles, after making such enquiry as may be necessary in this behalf ;

- (b) to place the said scheme for approval before the Legislative Assembly and submit the same to the British Parliament to be embodied in a Statute.

## (II) MOTILAL NEHRU'S SPEECH

September 7, 1925

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The first essential for the successful framing of a constitution is that we must agree as to what is to be the basis of that constitution. So far as we are concerned we have now pointed out that basis in this amendment, and I may at once inform the House that it constitutes the very minimum that we could put forward. Briefly it is this—that we want responsible Government in the Central Legislature. We want the Executive to be responsible to the Legislature except in certain particulars detailed here, namely, the expenditure on the military services up to a fixed limit, expenditure classed as political and foreign and payment of debt and liabilities. The reason why we do that is that it is in the nature of a proposal with a view to a settlement. It cannot be anything other than that.

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The next step that we ask you to take after declaring these principles in Parliament is to constitute whatever agency you like—we have said a convention, a round table conference or some other suitable agency—it does not matter to us by what name you call it—but it must be a representative agency, adequately representative of all Indian, European and Anglo-Indian interests. That agency is to frame a scheme with due regard to the interests of all the minorities. When this scheme is framed it is to be laid before Parliament, as was done in the case of the Dominions, and is to be followed by a Statute embodying it.

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...I take the case of Australia which framed its own constitution to be embodied in a Statute of Parliament. What was done will appear from the following extracts from the speech of the Right Honourable Joseph Chamberlain\* on the introduction of the Constitution Bill in the House of Commons on 14th May, 1900. He said :

On the one hand, we have accepted without demur, and we shall ask the House of Commons to accept every point in this Bill, every word,

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\*Secretary of State for Colonies.

every line, every clause, which deals exclusively with the interests of Australia... Wherever the Bill touches the interests of the Empire as a whole, or the interests of Her Majesty's subjects, or of Her Majesty's possessions outside Australia, the Imperial Parliament occupies a position of trust which it is not the desire of the Empire, and which I do not believe for a moment it is the desire of Australia, that we should fulfil in any perfunctory or formal manner.

That is exactly what we say. Make us masters in our own home, but whatever else is outside the home and pertains more to your Imperial interests you are welcome to keep. Then he says:

However great we might think the mistake that they are making, and however great we think the injury to the Empire, still we should have to act against the danger of interfering with those rights which they regard as their undoubted palladium.

Sir, you will see that the amendment which I have moved to-day not only fulfils these conditions but as a transitional arrangement allows the Secretary of State for India greater powers than the Secretary of State for the Dominions has in any self-governing Dominion.

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## THE COMMONWEALTH OF INDIA BILL 1925

*[As early as 1919, a considerable section of nationalist opinion had come to regard as vital that the Constitution of India should be framed by Indians themselves; Mrs. Annie Besant had told the Joint Parliamentary Committee that India would never be satisfied with a constitution drawn up at Westminster. In February, 1922, in a discussion in the "1921 Club," Madras, V. S. Ramaswami Sastri suggested that India should resort to a convention for the framing of a constitution. The idea was approved by a joint meeting of members of the two Houses of the Central Legislature held at Simla on the initiative of Mrs. Annie Besant. This was followed in February, 1923, by a conference at Delhi attended by members of the Central and Provincial legislatures. The conference outlined the essentials of a constitution placing India on equality with the self-governing Dominions of the British Empire. A second conference met in February, 1924, and called the 'National Convention' with which it was merged. Presided over by Tej Bahadur Sapru, former Law Member of the Governor-General's Council, and consisting of 255 other persons—231 members and ex-members of the legislatures, 19 members of the Council of the Home Rule League, 3 elected representatives of the "1921 Club," and 2 co-opted representatives of the Indian Women's Association—this Convention met in April, 1924, and drafted the Commonwealth of India Bill. In December 1924 the Convention sat in Bombay and considered and amended the draft, which was then submitted to a sub-committee appointed by a committee of the All-Parties Conference held at Delhi in January, 1925 and presided over by Mahatma Gandhi. The sub-committee which had Mrs. Annie Besant as its Chairman made a number of amendments which, along with other amendments, were considered by the Convention sitting at Kanpur in April 1925. Finally, the draft was submitted to a Drafting Committee consisting of C. P. Ramaswami Aiyar, B. Shiva Rao, N. Sri Ram, Yadunandan Prasad and Mrs. Annie Besant, with power to correct any oversights in language and to publish the Bill in the name of the Convention.]*

*In May, 1925, the Bill was sent to D. Graham Pole, a friend of Mrs. Besant and an influential member of the Labour Party and the then Hon. Secretary of the British Committee on Indian Affairs. It was accompanied by a memorandum signed by 43 Indian political leaders of various parties among whom were Tej Bahadur Sapru, V. S. Srinivasa Sastri, L. A. Govindaraghava Aiyar, N. C. Kelkar, B. G. Khaparde,*

*D. V. Gokhale, M. S. Aney, T. Rangachariar, Iqbal Narain Gurtu, M. Ramachandra Rao, Bipin Chandra Pal, Hirendra Nath Dutta, Mrs. Sarojini Naidu, Shaukat Ali, M. C. Raja, Ali Imam, Hasan Imam and B. Shiva Rao. In England, the Bill, titled as "A Bill to constitute within the British Empire a Commonwealth of India," was carefully revised by Henry Slessor, a member of the Labour Government and Arthur Henderson (Junior). It found wide support in the Labour Party and, after a close scrutiny, was accepted unanimously by the Executive Committee of the Parliamentary Labour Party. The Bill then had its first reading in the House of Commons in December 1925, when it was introduced by George Lansbury, a leading member of the Labour Party and on December 17, was ordered by the House of Commons to be printed. However, with the defeat of the Labour Government the fate of the Bill was sealed. An authentic summary of the Bill issued by the National Convention in 1925 and the text of the memorandum on the Bill, signed by Indian leaders, are reproduced below.]*

## (I) SUMMARY OF THE BILL

### GENERAL PRINCIPLES

INDIA SHALL BE placed on an equal footing with the Self-Governing Dominions, sharing their responsibilities and their privileges.

2. India shall have right to self-government exercised from the Village upwards in each successive autonomous area of wider extent.

There shall be five Units of Government, namely : (a) The Village (*Gram or Mauza*), (b) the Taluka (*Tahsil or Pergana*), (c) the District (*Zilla*), (d) the Province (*Rashtra*) and (e) India (*Hindustan*) excluding the Indian States.

3. The three great spheres of activity—Executive, Legislative and Judicial—shall be independent of each other while correlated in their working.

### DECLARATION OF RIGHTS

4. The following shall be the fundamental rights of every person. (a) Liberty of person and security of his dwelling and property, (b) Freedom of conscience and the free profession and practice of religion, (c) Free expression of opinion and the right of assembly peaceably and without arms and of forming associations or unions, (d) Free elementary education, (e) Use of roads, public places, courts of justice and the like, (f) Equality before the law, irrespective of considerations of Nationality, and (g) Equality of the sexes.

## THE ALL-INDIA LEGISLATURE

5. There shall be a Parliament which shall consist of the Viceroy, as the King's Representative, a Senate and a Legislative Assembly.

*The Senate*

6. The Senate shall be composed of 150 citizens, of not less than 30 years of age, elected for conspicuous public service.

7. Each member to be eligible to hold his seat for six years.

8. The electors shall be (a) Members and ex-Members of the Legislatures, (b) Members of governing bodies of recognised Universities, (c) Members of councils of certain other bodies such as Chambers of Commerce, Labour Associations, etc., (d) Persons possessing the present property and income qualifications for the Council of State.

*The Legislative Assembly*

9. The Legislative Assembly shall be composed of 300 citizens of not less than 25 years of age possessing the same qualifications as the electors of this Assembly or equivalent general or technical education.

10. The life of the Assembly shall ordinarily be for five years, but it may be dissolved sooner by the Viceroy.

11. The electors shall be the citizens of not less than 21 years of age possessing the following qualifications : (a) All Members of Legislatures and ex-Members, (b) All with education up to the Graduate level or equivalent general or technical education, (c) All who have an income of Rs. 50 per month and above, (d) All owners or occupiers of land with Rs. 50 per annum or more as land tax, (e) Those owning or occupying a house or a part of it with the annual rental value of Rs. 75, (f) Members of Chambers of Commerce, Trade Union Councils etc.

*Powers of the Parliament*

12. The division of powers between the Commonwealth Parliament and the Provincial Legislatures is more or less as at present, but all residual powers shall be vested in the Parliament.

13. The Parliament shall have full power over all Central subjects except Defence, which shall come under its control when it signifies its readiness to assume it.

14. The powers of the two Houses of the Parliament in respect of legislation shall be equal, except that Money Bills shall not originate in the Senate.

15. In the event of disagreement between the two Houses, there shall be a Joint Session whose decision shall be final.

## THE EXECUTIVE GOVERNMENT

16. There shall be a Cabinet of not less than seven Ministers from among the Members of Parliament who shall be collectively responsible to the Legislative Assembly.

17. The salaries of the Ministers shall be determined by the Parliament.

#### THE JUDICATURE

18. There shall be a Supreme Court of India.

19. The Supreme Court shall have original jurisdiction as regards treaty rights, inter-Provincial disputes and such other matters as are determined by statute.

20. The Supreme Court shall also have power to deal with all matters arising out of the interpretation of this Constitution or of any laws made by the Parliament.

21. The Supreme Court shall be the final appellate authority in India unless it certifies that the question is one which ought to be determined by the Privy Council.

22. The existing High Courts shall have the same powers and authority as before the commencement of this Act.

#### FINANCE AND TRADE

23. The Commonwealth shall have full power over all revenues raised in its name and by its authority.

24. No money shall be drawn from the Treasury except under appropriation made by law.

25. The allocation of revenues between the Commonwealth and the Provinces shall be determined by rules.

26. Trade, commerce and intercourse among the Provinces shall be free, and there shall be no preference given to any Province or Provinces.

#### THE PROVINCIAL LEGISLATURE

27. The legislative power of each Province shall be vested in the Governor, as the King's Representative, and a Legislative Council.

##### *The Legislative Council*

28. The Legislative Council shall be composed of citizens (the number varying according to the conditions of each Province) of not less than 25 years of age possessing any one of the following qualifications: (a) Education up to the High School level or equivalent general or technical training. (b) Ex-members of a District *Samiti* or Municipal Council who have served at least for one complete term. (c) Members of recognised bodies such as Chambers of Commerce, Trade Union Councils, etc.

29. The life of a Legislative Council shall ordinarily be four years, but it may be dissolved sooner by the Governor.

30. The electors shall be the following citizens of not less than 21 years of age: (a) All Members of District *Samitis* or Municipal Councils or

Legislatures and ex-members thereof. (b) All with High School or equivalent general or technical education. (c) All who have a monthly income of Rs. 25 and above. (d) All owners and occupiers of land with Rs. 30 or more as land tax. (e) Those owning or occupying a house or a part of it of the annual rental value of Rs. 50 or more. (f) Members of Trade Union Councils, Traders' Associations, etc.

*Powers of the Legislative Council*

31. The Legislative Council shall have full power over all Provincial subjects, but the authority of the Parliament shall be supreme in matters common to both.

THE EXECUTIVE GOVERNMENT

32. There shall be a Cabinet consisting of not less than three Ministers from amongst the Members of the Legislative Council who shall be collectively responsible to the Council.

33. The salaries of the Ministers shall be determined by the Legislative Council.

*New Provinces*

34. The Parliament shall have power to alter the limits of existing Provinces, establish new Provinces and make laws for their administration.

*Sub-Provincial Government*

35. The Village (Rural), or Ward (Urban); the Taluka; the District (Rural), or Municipality (Urban) shall be the three primary Units of Self-Government.

36. The following shall be the principles of their Self-Government: (a) The Executive in each Unit shall be responsible to the Representative body—the *Panchayat* for the Village, *Sabha* for the Taluka and *Samiti* for the District; (b) The *Panchayat*, *Sabha* and *Samiti* to carry on their work by Committees appointed by themselves; (c) The functions of these Units of Government to be classified under the three Heads: (i) Education, (ii) Protection, (iii) Economic and Industrial, and graded so as to provide for the maximum of Self-Government possible in each area; (d) The franchises to be also graded as follows, beginning with adult suffrage for the Village; (e) Each Unit shall be supervised generally by the next higher Unit.

*The Village*

37. There shall be a *Panchayat* in each Village elected annually by all residents of 21 years of age and above, from among themselves. The *Panchayat* shall have power to administer all village affairs.

*The Taluka*

38. There shall be a *Sabha* in each Taluka composed of citizens of 25 years of age and above and elected every two years from amongst those possessing any one of the following qualifications: (a) Education up to the primary grade, (b) Ex-Members of Village *Panchayats*, having served for one complete term.

39. The Electors shall be the following citizens of not less than 21 years of age: (a) All members of Village *Panchayats* or ex-members thereof, (b) All literates in the language of the Taluka, (c) All who have a monthly income of Rs. 10 and above, (d) All owners and occupiers of land with Rs. 10 per annum or more as land tax, (e) Those owning or occupying a house or part of it of the annual rental value of Rs. 6 and above.

40. The Taluka *Sabha* shall have power to administer all affairs in the Taluka.

#### *The District*

41. There shall be a *Samiti* (Rural) or Council (Urban) in each District composed of citizens of 25 years of age and above and elected every three years from amongst those possessing any of the following qualifications: (a) Education up to the Lower Secondary or Middle School grade, (b) Ex-Members of Taluka Boards or Ward *Panchayats*, having served for one complete term.

42. The Electors shall be the following citizens of not less than 21 years of age: (a) All members of Taluka Boards or Ward *Panchayats* or ex-members thereof, (b) All with primary education, (c) All who have a monthly income of Rs. 15 and above, (d) All owners or occupiers of land with Rs. 20 per annum or more as land tax, (e) Those owning or occupying a house or a part of it of the annual rental value of Rs. 18 or more.

43. The *Samiti* shall have power to administer all affairs in the Rural District or town respectively.

### THE DEFENCE COMMISSION

44. There shall be a Royal Commission every five years, with a majority of Indians thereon, to fix the minimum expenditure on the Defence of the Commonwealth, to report on the development of the Defence Forces and to make recommendations.

45. There shall be no communal electorates, *i.e.*, each elector shall be free to vote for any candidate, but as a transitory measure, the number of seats at present reserved for Musalmans and for Europeans shall be continued for five years.

### ALTERATION OF THE CONSTITUTION

46. The Parliament with the consent of the Provincial Legislatures shall have power to alter the Constitution.

### (II) INDIAN LEADERS' MEMORANDUM TO THE GOVERNMENT OF BRITAIN ON THE COMMONWEALTH OF INDIA BILL

Founding ourselves on (I) the Resolution proposed by Mr. (now Sir) Surendranath Banerjee and carried unanimously in the National Congress

of 1914, that India should be placed on an equality with the Self-Governing Dominions ; and on (2) the Resolution of the Congress in 1918, claiming the right to Self-Determination, said by Mr. Lloyd George to be applicable to tropical countries: We demand from the Parliament of Britain the passing of a statute embodying these Resolutions. This demand is made because of the pressing emergency of the time. Resentment is justly felt in India against Britain, because of the refusal of Britain to apply in India the principles for which India and Britain fought shoulder to shoulder in the War.

There is serious danger that the connexion between India and Britain, so useful in its possibilities to both countries and to the world, will be broken if India and Britain do not agree to replace the bond of force and submission by one of honourable equality and friendship. Though nearly seven years have passed since the ending of the War, no step has been taken by Britain to fulfil the above Resolutions, but, on the contrary, steps are being taken to perpetuate the administration of affairs of India by a foreign bureaucracy, and assurances are being authoritatively given to British undergraduates to induce them to enter the service of Britain in India by the promise that they will have a life-job. Proposals for further burdens are being made while powers vested in the Governor-General and Governors in India for the preservation of India's external defence and her internal tranquillity are being used to strengthen the "Steel-Frame" in defiance of the votes of her representatives, and to make tranquillity impossible by withholding the Freedom which is her right. The Prime Minister has made a sinister proposal that the term "Empire" shall be changed into "Commonwealth of British Nations," thus relegating India definitely to the detested position of a Dependency.

For India, Freedom is a matter of life and death. The appalling poverty of the masses, the neglect of their education shown by the disgracefully low figure of percentage of school attendance, the short life-period, the little tenacity of life—seen with surprise even by Lord Curzon—these and many other things such as the death-rate being twice lately higher than the birth-rate, show that, as a Nation, she is on the down-grade, under British Rule. We repeat the charge of Gopal Krishna Gokhale that, while efficient in organisation of her machinery and in matters which serve her own interests, British Rule is inefficient in vital matters which touch the National Interests. Under the present regime, with the Government of India subordinate to the Secretary of the State, India can neither revive her old prosperity at home nor defend her Nationals abroad. An enormous proportion of her revenue is spent on the Army, because the Army is kept for Imperial not for Home defence. In this she was better off in the days of the Company than now. She is daily shamed in the face of the world by the increasing humiliations heaped on her Nationals in other parts of the Empire. The Government of India is helpless to defend them. The British Government cares only

for its own kin. There is only one cure for the admitted "restlessness" of India, and that is her Freedom. Her irritability finds vent in domestic quarrels, because she is denied self-expression as a Nation. If this continues and Britain is obdurate in her refusal to agree to her demand for Dominion Status—on which all the political parties are agreed—the Government will become increasingly difficult and, ere long, impossible.

We do not say this as a threat, for we seek an honourable agreement, such as Britain refused to her American Colonies and created a Republic, but made with her other Colonies and created peace and amity. We also desire peace and amity and therefore, before it is too late, we state the danger as an approaching fact. Indian leaders were accused of making threats with regard to the Rowlatt Bill, when they uttered only a warning, and were disregarded by the Government. The Bill became an Act and remained a dead letter, but it caused resentment—driven underground by the massacre of Amritsar and the Martial Law atrocities in the Panjab—to grow, though silently. We also give a warning, for a Nation cannot for ever submit to foreign domination. Let the British cease to claim superiority and become equal friends, and the Union between the two countries will be secure. No intermediate steps are required—and so far as we are concerned they would be rejected—before the establishment of Dominion Status in India by the passing of a measure made by Indians, as has been done in the cases of the Dominions and Ireland. (The Act giving Freedom to Canada was admittedly drafted on the lines of Canadian Resolutions, while in other cases the Bills were drafted by the Colonies.) It was not demanded that any Colony should be ready to take full responsibility of Self-Defence before Dominion Status was granted. Even now they depend on the British Navy for the defence of their coasts. India has already a magnificent Army of Infantry and Cavalry, and her helplessness in Artillery and Air Force, due to Britain not to herself, demands time before she can be wholly self-dependent in defence. England's default in this respect is no reason for the further injustice of denying her Freedom.

We therefore demand from the British Parliament the passage of the Commonwealth of India Bill, prepared by Members and ex-Members of Indian Legislatures of all political parties, by the elected Council of the National Home Rule League, and two co-opted officers of the Indian Women's Association. The country is organising itself in its support, and work will be carried to success, for when a great Nation demands its Freedom it cannot long be denied.



NATIONAL LIBERAL FEDERATION'S RESOLUTION ON  
CONSTITUTIONAL REFORMS  
December 1925

*[On December 29, 1925, the National Liberal Federation adopted a resolution on constitutional reforms which was moved by C. Y. Chintamani. The text of the resolution is reproduced below.]*

(a) THE NATIONAL LIBERAL FEDERATION of India records its sense of disappointment at the Majority Report of the Reforms Enquiry Committee, which is against the volume and weight of evidence placed before it and warmly approves of the Minority Report of the Committee. It records its sense of appreciation of the patriotic service rendered by the signatories of the Minority Report, three of whom, it notes with gratification, are among its ex-Presidents.

(b) The Federation is deeply disappointed at the position taken by the Secretary of State and the Viceroy in their speeches of July and August respectively, and by the Government of India in the resolution moved by the Home Member in the Legislative Assembly in September, which position is against the unanimous opinion of all parties in India.

(c) While according its general support to the amendment to the Home Member's resolution, which was adopted by the Legislative Assembly, the Federation affirms its conviction of the necessity of a reform of the constitution without delay on the lines indicated below:

- (1) Provincial Governments should be responsible to the respective Provincial Legislative Councils which should be wholly elected.
- (2) The Central Government should be responsible to the Legislative Assembly in the whole sphere of internal civil administration.
- (3) The control of the foreign and political relations of the Government and of the military, naval and air defence of the country should remain vested in the Governor-General, for a definite period, after the expiry of which the position should be reviewed by a commission on which the Indian opinion is adequately represented.
- (4) During the period a fixed amount should be allotted for expenditure on the departments controlled by the Governor-General, and he should be free to spend up to that limit notwithstanding an

adverse vote of the Assembly.

- (5) When the Governor-General certifies that an emergency has arisen which requires additional expenditure for the safety of the country, he shall have authority to incur such expenditure, but he shall apprise the Legislative Assembly of such expenditure at its next sitting.
- (6) Indians should be trained for and freely admitted to all arms of defence and such financial provision shall be made for their training as the Legislative Assembly may decide.
- (7) The principle and conditions of recruitment for all All-India Services shall be laid down by, and the control over such services shall vest in, the Government of India; the actual recruitment being made by an independent statutory body like the Civil Service Commission.
- (8) All subjects not specifically vested in Provincial Governments should be under the control of the Central Government.
- (9) The Council of the Secretary of State for India should be abolished, and his position should, as far as possible, be made analogous to that of the Secretary of State for the Dominions.
- (10) The strength of all legislative bodies should be increased, the franchise widened and lowered and adequate provision made for the representation by election of the backward, depressed and labouring classes.
- (11) Alike in respect of franchise and of eligibility for membership of legislative and local bodies as well as for the public services, women should be placed on an equality with men.
- (d) The National Liberal Federation of India urges that His Majesty's Government should make an early announcement of the appointment of a Commission to report on the aforesaid proposals and that Indian public opinion should be adequately represented thereon.

## CONGRESS PRESIDENT ON THE SIMON COMMISSION

November 1927

*[In November 1927, an Indian Statutory Commission under Sir John Simon was appointed to examine whether Indians were fit for being entrusted with a further instalment of responsible government. The Commission consisted of seven members all of whom were British. The exclusion of Indians from the Commission was condemned by an all-Party meeting held at Allahabad on December 11, 1927, as being 'a deliberate insult to the people of India', for not only did it 'definitely assign to them a position of inferiority', but denied them 'the right to participate in the determination of the constitution of their own country'. With other leading political parties in the country, the Indian National Congress decided to boycott the Commission. Explaining his party's stand in a statement made on November 10, 1927, S. Srinivasa Iyengar the then Congress President, pressed the British Government to accede to the 'National Demand' for convening a Round Table Conference or Constituent Assembly to determine the future constitution of India. The statement is reproduced below.]*

THE REASONS FOR the boycott are of the most cogent description. Indian people, as the Congress has rightly claimed, are entitled to determine their own Constitution either by a Round Table Conference or by a convention Parliament. That claim has been definitely negated by the appointment of this Commission. That is the most important reason not only from the Congress point of view but from the point of view, I am certain, of all the Indian political parties which concurred in the two resolutions of the Legislative Assembly of 18th February 1924 and 8th September 1925. That of course is the fundamental objection. The second reason is that we cannot be parties to an inquiry into our fitness for *Swaraj* or for any measure of responsible government. Our claim for *Swaraj* is there and it is only a question of negotiations and settlement between the British Government and the Indian people. The third reason is undoubtedly the affront to Indian self-respect involved in the deliberate exclusion of Indians from the Commission. While the Congress point of view is undoubtedly that any Commission, whether mixed or all-British, is open to the two fundamental objections already stated, neither

Congressmen nor others can ignore the insult offered to Indians generally when they are roundly told that they cannot be regarded as unbiased and competent to present an accurate picture of facts to the Parliament. A majority of really representative and unofficial Indians on the Commission would still be open to the fundamental objections from the Congress point of view but would be free from insulting implications. Nor do I understand how select committees consisting of Indians will become straightway unbiased and competent to make their judgement 'an integral factor in the examination of the question and be given due weight'. The fourth reason for the boycott is that the present time is considered by the British Government as most suitable. From their point of view it would help them to revise the Constitution so as to make it even more convenient than the existing Act. When a Commission was wanted the British Government would not give it, but they would impose upon the Indian people a Commission which is not wanted and when it is not wanted. Lord Birkenhead now introduces a Bill to amend Section 84A of the Government of India Act so as to appoint the Commission before the expiry of the ten years. Could he not introduce a Bill either to repeal that section altogether or to amend it so as to provide for a Round Table Conference or a Constituent Assembly? The Government of India Act has been modified, during the interval, on matters such as the Lee Commission proposals and the enabling of Viceroys and Members of Government to take leave and go out of India temporarily. This very Section 84A dealing with this Statutory Commission is now sought to be modified on this important matter, the question of date. We are also told in the statement issued by His Excellency the Viceroy that the statute never professed to incorporate 'irrevocable decisions'. Why then should not Section 84A be replaced or suitably modified so as to accede to the demands of the Assembly which were passed by overwhelming majorities and the demand of the Congress and the country as a whole? The last reason for the boycott is the spirit which lies behind these proposals. There is no change of heart except in the direction of greater hardening.

## CONGRESS RESOLUTION ON SWARAJ CONSTITUTION

### December 1927

*[On May 17, 1927, at the Bombay Session of the Congress, Motilal Nehru moved a resolution calling upon the Working Committee to frame a Constitution for India in consultation with the elected members of the Central and Provincial legislatures and leaders of political parties, and place it before a special meeting of the A.I.C.C. At Hamid Khan's suggestion the word "Constitution" in the original resolution was amended to read "Swaraj Constitution"; another amendment, moved by Kausulji, to include a Declaration of Rights in the proposed Constitution was accepted by the mover. As so amended, the resolution was adopted by an overwhelming majority. This directive to the Working Committee was, with certain amplifications, reiterated in another resolution adopted at the Madras Congress on December 28, 1927. The need for framing a Constitution for India was also emphasized by M. A. Ansari in his presidential speech at the Congress. The relevant extracts from the speech and the text of the Madras Congress Resolution are reproduced below.]*

#### (I) PRESIDENTIAL SPEECH OF M. A. ANSARI

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THE ADVENT of the Statutory Commission should not divert our attention from the work of framing a constitution for India. The need for it had been felt for a long time and at the Bombay meeting of the All-India Congress Committee, the Working Committee was called upon to draw up, in consultation with leaders of political thought in the country, a suitable Constitution for India. A Constitution of this nature would remove suspense and doubt from the minds of the different communities regarding their position and status in the final political arrangements of the country. It would rally the different political parties round the Congress and prove of incalculable value in the education of the people in their political rights and privileges, telling them in exact language what they are called upon to fight for. Nor can we underrate its value in strengthening our hands generally in our struggle for the achievement of *Swaraj*.

To frame a constitution for a people consisting of 320 million souls, professing different religions and speaking different languages, will be the most unique and gigantic experiment in democracy ever attempted. The task of the framers will be further complicated by the presence of Indian States exercising sovereign rights in their territories. Whatever be the final form of the constitution, one thing may be said with some degree of certainty, that it will have to be on federal lines providing for a United States of India with existing Indian States as autonomous units of the Federation taking their proper share in the defence of the country, in the regulation of the nation's foreign affairs and other joint and common interests.

As soon as the Draft Constitution is ready the Congress should take steps to call a National Convention consisting of representatives of all interests, communities and political parties to consider it and give it a final shape.

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## (II) RESOLUTION ON SWARAJ CONSTITUTION

Having regard to the general desire of all political parties in the country to unite together in settling a *Swaraj* Constitution and having considered the various drafts submitted to it and the various suggestions received in reply to the Working Committee's circular, this Congress authorises the Working Committee, which shall have power to co-opt, to confer with similar committees to be appointed by other organisations—political, labour, commercial and communal—in the country and to draft a *Swaraj* Constitution for India, on the basis of a Declaration of Rights, and to place the same for consideration and approval before a Special Convention to be convened in Delhi not later than March next, consisting of the All-India Congress Committee and the leaders and representatives of the other organisations above-mentioned and the elected members of the central and provincial legislatures.

NATIONAL LIBERAL FEDERATION RESOLUTION ON  
THE SIMON COMMISSION  
December, 1927

*[The resolution was adopted by the All-India National Liberal Federation on December 28, 1927, at its tenth session, held in Bombay under the presidency of Tej Bahadur Sapru.]*

THE NATIONAL LIBERAL FEDERATION is strongly of opinion that the official announcement made about the constitution of the Statutory Commission and the functions of the committees of Indian legislatures is unacceptable, as it flagrantly denies the right of the Indian people to participate on equal terms in framing the future constitution of the country, that the legislatures and Indians throughout the country should have nothing to do with the Commission at any stage or in any form and that the Council of the Federation be authorised to take all necessary steps to give effect to this resolution.

## THE NEHRU REPORT

### August 1928

[In compliance with the directions contained in the Madras Congress Resolution, 1927, the Working Committee of the Congress convened an All Parties Conference to draft a Swaraj Constitution for India. The first meeting of the Conference, attended, among others, by representatives of the All-India Muslim League, the All-India Hindu Mahasabha, the Central Khilafat Committee, the All-India Conference of Indian Christians, the States' People's Conference, the All-India Liberal Federation as well as the Congress was held in February 1928, at Delhi. The Conference decided that the Constitution to be framed should provide for the establishment of full responsible government. Meeting again in Bombay in May 1928, the Conference appointed a small committee with Motilal Nehru as the Chairman and seven other members, namely, Ali Imam, Tej Bahadur Sapru, M. S. Aney, Sardar Mangal Singh, Shuaib Qureshi, Subhas Chandra Bose and G. R. Pradhan, commissioning them 'to determine the principles of the Constitution for India'. The report of the Committee (submitted on August 10, 1928), which became famous as 'The Nehru Report', was acclaimed by constitutional historians as "not only an answer to the challenge that Indian nationalism was unconstructive" but the " frankest attempt yet made by Indians to face squarely the difficulties of communalism". In brief, the Constitution embodied in the Report was based on the principle of Dominion Status with full responsible government on the parliamentary pattern.

The Constitution as recommended in the Nehru Report was adopted 'in principle' but with certain amendments, by the All Parties Conference held at Lucknow at the end of August 1928. The Conference reappointed the Nehru Committee with power to co-opt and authorized it to select and instruct a parliamentary draftsman to put the Constitution, as accepted by the Conference, with all necessary ancillary and consequential provisions, in the shape of a Bill to be placed before a convention of the representatives of all political, commercial, labour and other organizations in the country. The idea of a Bill was later dropped, but in December 1928, the reconstituted Nehru Committee published a supplementary report which secured a considerable measure of agreement at the All-Parties Convention held in Calcutta from December 22, 1928 to January 1, 1929. The recommendations made by the Nehru Committee in its original report are reproduced below.]



## CONSTITUTIONAL STATUS OF INDIA

INDIA SHALL HAVE the same constitutional status in the comity of nations known as the British Empire, as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa and the Irish Free State, with a Parliament having powers to make laws for the peace, order and good government of India and an executive responsible to that Parliament, and shall be styled and known as the Commonwealth of India.

## OPERATION OF THE CONSTITUTION AND LAWS

2. This Act and all laws made by the Parliament of the Commonwealth thereunder shall be binding on the courts and people of every province, and of every part of the Commonwealth, notwithstanding anything in the laws of the Indian Legislature or of any province or in any Act of the United Kingdom extending to British India; and the laws of the Commonwealth shall be enforced in all Indian territorial waters.

## DEFINITION OF CITIZEN

3. The word "citizen" wherever it occurs in this constitution means every person (a) who was born, or whose father was either born or naturalised, within the territorial limits of the Commonwealth and has not been naturalised as a citizen of any other country; (b) who is naturalised in the Commonwealth under the law in force for the time being.

*Explanation :* No person who is a citizen of a foreign country can be a citizen of the Commonwealth unless he renounces the citizenship of such foreign country in the manner prescribed by law.

## FUNDAMENTAL RIGHTS

4. (i) All powers of government and all authority, legislative, executive and judicial, are derived from the people and the same shall be exercised in the Commonwealth of India through the organisations established by or under, and in accord with, this constitution. (ii) No person shall be deprived of his liberty nor shall his dwelling or property be entered, sequestered or confiscated, save in accordance with law. (iii) Freedom of conscience and the free profession and practice of religion are, subject to public order or morality, hereby guaranteed to every person. (iv) The right of free expression of opinion, as well as the right to assemble peaceably and without arms, and to form associations or unions, is hereby guaranteed for purposes not opposed to public order or morality. (v) All citizens in the Commonwealth of India have the right to free elementary education without any distinction of caste or creed in the matter of admission into any educational institutions, maintained or aided by the state and such right shall be enforceable as soon as due arrangements shall

have been made by competent authority. (vi) All citizens are equal before the law and possess equal civic rights. (vii) There shall be no penal law whether substantive or procedural of a discriminative nature. (viii) No person shall be punished for any act which was not punishable under the law at the time it was committed. (ix) No corporal punishment or other punishment involving torture of any kind shall be lawful. (x) Every citizen shall have the right to a writ of *habeas corpus*. Such right may be suspended in case of war or rebellion by an Act of the central legislature or, if the legislature is not in session, by the Governor-General in Council, and in such case he shall report the suspension to the legislature at the earliest possible opportunity for such action as it may deem fit. (xi) There shall be no state religion for the Commonwealth of India or for any province in the Commonwealth, nor shall the state either directly or indirectly endow any religion or give any preference or impose any disability on account of religious belief or religious status. (xii) No person attending any school receiving state aid or other public money shall be compelled to attend the religious instruction that may be given in the school. (xiii) No person shall by reason of his religion, caste or creed be prejudiced in any way in regard to public employment, office of power or honour and the exercise of any trade or calling. (xiv) All citizens have an equal right of access to, and use of, public roads, public wells and all other places of public resort. (xv) Freedom of combination and association for the maintenance and improvement of labour and economic conditions is guaranteed to everyone and of all occupations. All agreements and measures tending to restrict or obstruct such freedom are illegal. (xvi) No breach of contract of service or abetment thereof shall be made a criminal offence. (xvii) Parliament shall make suitable laws for the maintenance of health and fitness for work of all citizens, securing of a living wage for every worker, the protection of motherhood, welfare of children, and the economic consequences of old age, infirmity and unemployment. (xviii) Every citizen shall have the right to keep and bear arms in accordance with regulations made in that behalf. (xix) Men and women shall have equal rights as citizens.

*Note.*—Notwithstanding anything to the contrary in article IV the Sikhs are entitled to carry *Kripans*.

#### PARLIAMENT

5. The legislative power of the Commonwealth shall be vested in a Parliament which shall consist of the King, a Senate and a House of Representatives herein called the Parliament.

6. The Governor-General shall be appointed by the King and shall have, and may exercise in the Commonwealth, during the King's pleasure, but subject to this constitution, such powers and functions of the King as His Majesty may assign to him.

7. (a) There shall be payable to the King out of the revenues of India for the salary of the Governor-General an annual sum...which, until the Parliament of the Commonwealth otherwise provides, shall be as in the schedule hereof provided. (b) The salary of a Governor-General shall not be altered during his continuance in office.

8. The Senate shall consist of 200 members to be elected by the Provincial Councils, a specific number of seats being allotted to each province on the basis of population, subject to a minimum. The election shall be held by the method of proportional representation with the single transferable vote. (The Hare system).

9. The House of Representatives shall consist of 500 members to be elected by constituencies determined by law. Every person of either sex who has attained the age of 21, and is not disqualified by law shall be entitled to vote.

Provided that Parliament shall have the power to increase the number of members from time to time if necessary.

10. (1) Every House of Representatives shall continue for five years from its first meeting and every Senate shall continue for seven years.

Provided that—

(a) either chamber of the legislature may be sooner dissolved by the Governor-General; and

(b) any such period may be extended by the Governor-General if in special circumstances he so thinks fit; and

(c) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months after the date of dissolution for the next session of that chamber.

(2) The Governor-General may appoint such times and places for holding the sessions of either chamber of the Indian legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions.

(3) Any meeting of either chamber of the Indian legislature may be adjourned by the person presiding.

(4) All questions in either chamber shall be determined by a majority of votes of members present, other than the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

(5) The powers of either chamber of the Indian legislature may be exercised notwithstanding any vacancy in the chamber.

11. There shall be a president of each House of Parliament who shall be a member of the House and shall be elected by the House. There shall also be a deputy president of each House who shall also be a member of the House and be similarly elected.

12. The privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Representatives and by the

members thereof respectively shall be such as are from time to time defined by Act of Parliament of the Commonwealth.

13. Parliament shall, subject to the provisions of this constitution, have power to make laws (a) for the peace, order and good government of the Commonwealth in relation to all matters not coming in the classes of subjects by this Act assigned to the legislatures of provinces; (b) for the nationals and servants of the Commonwealth within other parts of India as well as those without and beyond India; (c) for the government officers, soldiers, airmen and followers in His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Army Act or the Air Force Act; and (d) for all persons employed or serving in or belonging to the Royal Indian Marine Service or the Indian Navy.

For greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that notwithstanding anything in this Act the legislative authority of the Parliament of the Commonwealth extends to all matters coming within the classes of subjects hereinafter enumerated and specified in Schedule I, attached hereto.\*

14. The powers of Parliament with respect to foreign affairs, not including the Indian States, shall be the same as exercised by the self-governing dominions.

15. Provision may be made by rules under this Act for regulating the course of business and the preservation of order in the chambers of the Indian legislature and as to the persons to preside at the meetings of the House of Representatives in the absence of the president and the deputy president; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules.

16. (i) Any bill which appropriates revenue or monies for the ordinary annual services of the Commonwealth government shall deal only with such appropriations. (ii) Bills imposing taxation shall deal only with the imposition of taxes, and any provision therein dealing with any other matter shall be of no effect. (iii) Bills affecting the public debt or for the appropriation of revenues or monies or for imposing taxation shall be introduced only by a member of the executive council and can only originate in the House of Representatives.

17. A money bill means a bill which contains only provisions dealing with all or any of the following subjects, namely the imposition, repeal, remission, alteration or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on public revenues or monies, or the variation or repeal of any such charges; supply, the appropriation, receipt, custody, issue or audit of accounts of public money; the raising of any loan or the repayment thereof; or subordinate matters

\*Schedule not reproduced.

incidental to those subjects or any of them. In this definition the expression "taxation", "public money" and "loan" respectively do not include any taxation, money or loan raised by local authorities or bodies for local purposes.

18. The question whether a bill is or is not a money bill will be decided by the president of the House of Representatives.

19. A money bill passed by the House of Representatives shall be sent to the Senate for its recommendations and it shall be returned not later than... days therefrom to the House of Representatives, which may pass it, accepting or rejecting all or any of the recommendations of the Senate; and the bill so passed shall be deemed to have been passed by both chambers.

20. (i) Subject to the provisions of this Act, a bill may be initiated in either House of Parliament and, if passed by the originating House, shall be introduced in the other House for being passed. (ii) Except as otherwise provided under this Act, a bill shall not be deemed to have been passed by Parliament unless it has been agreed to by both Houses, either without amendments or with such amendments only as may be agreed to by both Houses. (iii) If any bill which has been passed by the House of Representatives is not, within six months after the passage of the bill by that House, passed by the Senate, either without amendments or with such amendments as may be agreed to by both Houses, the Governor-General shall, on resolution passed by either House to that effect, refer the matter for decision to a joint sitting of both Houses. The members present at any such joint sitting may deliberate and shall vote together upon the bill as last proposed by the House of Representatives and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of members of the Senate and the House of Representatives present at such sitting, shall be taken to have been duly passed by both Houses of Parliament.

21. (i) So soon as any bill shall have been passed, or deemed to have been passed, by both Houses, it shall be presented to the Governor-General for the signification by him, in the King's name, of the King's assent, and the Governor-General may signify such assent or withhold the same or he may reserve the bill for the signification of the King's pleasure. (ii) A bill passed by both Houses of Parliament shall not become an Act until the Governor-General signifies his assent thereto in the King's name, or in the case of a bill reserved for the signification of the King's pleasure, until he signifies by speech or message to each House of Parliament, or by proclamation that it has received the assent of the King in Council.

Provided that the Governor-General may, where a bill has been passed by both Houses of Parliament and presented to him for the signification by him of the King's assent, or has been reserved by him for the signification

of the King's pleasure, return the bill for reconsideration by Parliament with a recommendation that Parliament shall consider amendments thereto.

(iii) Any bill so returned shall be further considered by Parliament together with the amendments, recommended by the Governor-General, and if re-affirmed with or without amendments, may be again presented to the Governor-General for the signification in the King's name of the King's assent.

#### THE COMMONWEALTH EXECUTIVE

22. The executive power of the Commonwealth is vested in the King and is exercisable by the Governor-General as the King's representative, acting on the advice of the executive council, subject to the provisions of this Act and of the laws of the Commonwealth.

23. (a) There shall be an executive council consisting of the Prime Minister and, until Parliament otherwise provides, not more than six ministers of the Commonwealth. (b) The Prime Minister shall be appointed by the Governor-General and the ministers shall also be appointed by him on the advice of the Prime Minister. (c) The executive council shall be collectively responsible to the legislature for all matters concerning the departments of the commonwealth administered by members of the executive council.

24. Until Parliament otherwise provides, the appointment and removal of all other officers of the executive government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council, or by a law of the Commonwealth to some other authority.

25. The Command-in-chief of the military, naval and air forces of the Commonwealth is vested in the Governor-General as the King's representative.

#### HIGH COMMISSIONER AND FOREIGN REPRESENTATIVES

26. The Commonwealth shall have the power to appoint High Commissioners and other foreign representatives similar to that exercised by Canada and other dominions. Such appointment shall be made by the Governor-General in Council who shall also make provision by rules for his pay, powers, duties and conditions of employment.

#### FINANCIAL CONTROL

27. (1) The Auditor General in India shall be appointed by the Governor-General in Council who shall by rules make provision for his pay, powers, duties and the conditions of employment, or for the discharge of his duties in the case of a temporary vacancy or absence from duty.

(2) Subject to any rules made by the Governor-General in Council no office may be added to or withdrawn from the public service and the emoluments of no posts may be varied except after consultation with such finance authority as may be designated in the rules, being an authority of the province or of the Commonwealth according as it is or is not under the control of a local government.

#### THE PROVINCIAL LEGISLATURE

28. The legislative power of a province shall be vested in the King and the local Legislative Council.

29. There shall be a Governor of every province who shall be appointed by the King and represent his Majesty in the province.

30. There shall be payable to the King out of the revenues of the province for the salary of the Governor an annual sum of ...which, until Parliament of the Commonwealth otherwise provides shall be as in schedule...hereof provided.

31. (i) There shall be one member of the Provincial Legislative Council for every 100,000 of the population of the said province, provided that in provinces with a population of less than ten millions there may be a maximum of 100 members. (ii) Every member shall be elected by a constituency determined by law. Every person of either sex who has attained the age of 21 and is not disqualified by law shall be entitled to vote.

32. (i) Every Provincial Council shall continue for 5 years from its first sitting provided that (a) it may be sooner dissolved by the Governor; (b) the term of 5 years may be extended by the Governor if in special circumstances he so thinks fit; (c) after the dissolution of the Council the Governor shall appoint a date not more than 6 months after the date of the dissolution for the next session of the Council. (ii) The Governor may appoint such times and places for holding the sessions of the Council as he thinks fit and may also from time to time, by notification or otherwise, prorogue such sessions. (iii) Any meeting of the Council may be adjourned by the person presiding. (iv) All questions in the Council shall be determined by the majority of votes of the members present other than the presiding member, who shall however have and exercise a casting vote in the case of an equality of votes. (v) The powers of the Council may be exercised notwithstanding any vacancy.

33. There shall be a president of every Council who shall be a member of the House and shall be elected by the House. There shall also be a deputy president who shall also be a member of the House and be similarly elected.

34. The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government

of the territories for the time being constituting that province. The legislative authority of every provincial council extends to all matters coming within the classes of subjects hereinafter enumerated and specified in Schedule II, attached hereto.\*

35. The local legislature of any province may repeal or alter, as to that province, any law relating to a provincial subject made either before or after the commencement of this Act by any authority in British India.

36. Any measure affecting the public revenues of a province, or imposing any change on the revenue, shall be introduced only by a member of the executive council of the Governor.

37. When a bill has been passed by a local legislative Council, the Governor may declare that he assents to or withholds his assent from the bill.

38. If the Governor withholds his assent from any such bill the bill shall not become an Act.

39. If the Governor assents to any such bill, he shall forthwith send an authentic copy of the Act to the Governor-General, and the Act shall not have validity until the Governor-General has assented thereto and that assent has been signified by the Governor-General to, and published by the Governor.

40. Where the Governor-General withholds his assent from any such Act, he shall signify to the Governor in writing his reason for so withholding his assent.

41. When an Act has been assented to by the Governor-General it shall be lawful for his Majesty in Council to signify his disallowance of the Act.

42. Where the disallowance of an Act has been so signified, the Governor shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

#### THE PROVINCIAL EXECUTIVE

43. The executive power of the province shall be vested in the Governor acting on the advice of the provincial executive council.

44. There shall be an executive council for every province consisting of not more than five ministers appointed by the Governor.

45. In appointing the executive council the Governor shall elect the Chief Minister and appoint others only on his advice.

#### THE JUDICIARY

46. There shall be a Supreme Court which shall exercise such jurisdiction as Parliament shall determine. The Supreme Court shall consist of a Lord President and so many other Justices, as Parliament may fix.

47. The Lord President of the Commonwealth, and all other Judges of

\*Schedule not reproduced.



the Supreme Court of the Commonwealth to be appointed after the establishment of the Commonwealth, shall be appointed by the Governor-General in Council, and shall receive such remuneration as Parliament shall prescribe, and their remuneration shall not be diminished during their continuance in office.

48. The Lord President of the Commonwealth and other judges of the Supreme Court of the Commonwealth shall not be removed from office except by the Governor-General in Council on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

49. The Supreme Court shall have original jurisdiction in all matters—*(i)* referred to the Supreme Court by the Governor-General in Council under section 85; *(ii)* in which the Commonwealth or person suing or being sued on behalf of the Commonwealth, is a party; *(iii)* affecting consuls or other representatives of other countries; *(iv)* between provinces; *(v)* arising under this constitution or involving its interpretation.

50. The Supreme Court shall have jurisdiction with such exceptions and subject to such regulations as Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders and sentences—*(a)* of any Justice or Justices exercising the original jurisdiction of the Supreme Court; *(b)* of the High Court of any province, or of any other court of any province from which at the establishment of the Commonwealth an appeal lies to the King in Council.

51. The judgment of the Supreme Court in all such cases shall be final and conclusive and shall not be reviewed or be capable of being reviewed by any other court, tribunal or authority whatsoever.

#### APPEALS TO THE KING IN COUNCIL

52. *(i)* No appeal shall be permitted to the King in Council from a decision of the Supreme Court upon any question howsoever arising, as to the limits *inter se* of the constitutional powers of the Commonwealth and those of any province or provinces, or as to the limits *inter se* of the constitutional powers of any two or more provinces, unless the Supreme Court shall certify that the question is one which ought to be determined by the King in Council.

*(ii)* The Supreme Court may so certify if satisfied that for any special reason the certificates should be granted and thereafter an appeal shall lie to the King in Council on the question without further leave.

*(iii)* Parliament may make laws limiting the matters in which such leave may be asked, provided that such laws do not impair any right which the King may be pleased to exercise by virtue of his royal prerogative to grant special leave of appeal from the Supreme Court to the King in Council.

## HIGH COURTS

*Constitution*

53. The High Courts referred to in this Act are the High Courts of judicature for the time being established in British India.

54. Each High Court shall consist of a Chief Justice and as many other judges as the Governor-General in Council may think fit to appoint. Provided as follows: (i) The Governor-General in Council may appoint persons to act as additional judges of any high court, for such period, not exceeding two years, as may be required; and the judges so appointed shall, whilst so acting, have all the powers of a judge of the High Court appointed by the Governor-General in Council; (ii) the maximum number of judges of a High Court including the Chief Justice and additional judges shall be 20.

55. A judge of a High Court must be an advocate on the rolls of a High Court of not less than ten years' standing provided that nothing herein contained shall affect the continuance of the tenure of office of the judges who may be holding appointments at the commencement of this Act.

56. (i) Every judge of a High Court shall hold office during his good behaviour. (ii) Any such judge may resign his office to the local government.

57. The Chief Justice and other judges of the High Court shall not be removed from office except by the Governor-General in Council on an address by the Provincial Legislature.

58. (i) The Governor-General in Council may fix the salaries, allowances, furloughs, retiring pensions, and may alter them, but any such alteration shall not affect the salary of any judge appointed before the date thereof. (ii) The remuneration fixed for a judge under this section shall commence upon taking upon himself the execution of his office.

59. (i) On the occurrence of a vacancy in the office of Chief Justice of a High Court, and during any absence of such a Chief Justice, the local government shall appoint one of the other judges of the same High Court to perform the duties of Chief Justice of the court, until some person has been appointed by the Governor-General to the office of Chief Justice of the court, and has entered on the discharge of his duties of that office, or until the Chief Justice has returned from his absence, as the case requires. (ii) On the occurrence of a vacancy in the office of any other judge of a High Court, and during any absence of any such judge, or on the appointment of any such judge to act as Chief Justice, the local government may appoint a person, with such qualifications as are required in persons to be appointed to the High Court; and the person so appointed may sit and perform the duties of a judge of the court, until some person has been appointed by the Governor-General in Council to the office of the judge of the court, and has entered on the discharge of the duties of the

office, or until the absent judge has returned from his absence or until the local government sees cause to cancel the appointment of the acting judge.

*Jurisdiction*

60. (i) The several High Courts are courts of record and have such jurisdiction, original and appellate, including admiralty jurisdiction in respect of offences committed on the high seas, and all such powers and authority over or in relation to the administration of justice, including power to appoint clerks and other ministerial officers of the court, and power to make rules for regulating the practice of the court as are vested in them by letters patent, and subject to the provisions of any such letters patent, all such jurisdiction, powers and authority as are vested in those courts respectively at the commencement of this Act.

(ii) The letters patent establishing or vesting jurisdiction, power, or authority, in a high court may be amended from time to time by a further letters patent.

61. Each of the High Courts has superintendence over all courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say,—(a) call for returns; (b) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction; (c) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; (d) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts; and (e) settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts; provided that such rules, forms and tables shall not be inconsistent with the provisions of any law for the time being in force, and shall require the previous approval of the local government.

62. (i) Each High Court may, by its own rules, provide as it thinks fit for the exercise, by one or more judges of the High Court, of the original and appellate jurisdiction vested in the court. (ii) The Chief Justice of each High Court shall determine what judge in each case is to sit alone, and what judges of the court, whether with or without the Chief Judge, are to constitute the several division courts.

63. The Governor-General in Council may, by order, transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the High Courts, and authorise any High Court to exercise all or any portion of its jurisdiction in any part of British India not included within the limits for which the High Court was established, and also to exercise any such jurisdiction in respect of any British subject for the time being within any part of India outside the Commonwealth.

64. (a) The Governor-General, each Governor, each of the members of the executive council, whether in the Commonwealth or in the provinces, shall not be subject to the original, appellate or revisional jurisdiction of any High Court, by reason of anything counselled, ordered or done, by any

of them, in his public capacity only. (b) The exemption shall extend also to the Chief Justices and other judges of the several High Courts.

65. The Governor-General in Council may, if he sees fit, by letters patent, establish a High Court of judicature in any territory in the Commonwealth, whether or not included within the limits of the local jurisdiction of another High Court, and confer on any High Court so established, any such jurisdiction, powers and authority as are vested in, or may be conferred on, any High Court existing at the commencement of this Act; and, where a High Court is so established in any area included within the limits of the local jurisdiction of another High Court, the Governor-General may, by letters patent, alter those limits, and make such incidental, consequential and supplemental provisions as may appear to be necessary by reason of the alteration.

#### ADVOCATE-GENERAL

66. The local government may appoint an Advocate-General for each of the provinces and may, on the occurrence of a vacancy in the office of Advocate-General, or during any absence or deputation of an Advocate-General, appoint a person to act as Advocate-General; and the person so appointed may exercise the powers of an Advocate-General until some person has been appointed by the Governor-General in Council and has entered on the discharge of his duties or until the Advocate-General has returned from absence or deputation, as the case may be, or until the local government cancels the local appointment.

#### PROPERTY, REVENUE AND FINANCE

67. All property vested in, or arising or accruing from property or rights vested in, His Majesty or the Secretary of State in Council under the Government of India Acts, 1858, 1915 and 1919 shall vest in the Governor-General in Council.

68. The revenues of India shall vest in the Governor-General in Council and shall, subject to the provisions of this Act, be applied for the purposes of the Commonwealth alone.

69. The expression "the revenues of India" in this Act shall include all the territorial and other revenues of or arising in British India, and in particular,—(i) all tributes and other payments in respect of any territories which would have been receivable by or in the name of the East India Company if the Government of India Act, 1858, had not been passed; and (ii) all fines and penalties incurred by the sentence or order of any court of justice in British India, and all forfeitures for crimes of any movable or immovable property in British India; and (iii) all movable or immovable property in British India escheating or lapsing for want of

an heir or successor and all property in British India devolving as *bona vacantia* for want of a rightful owner.

70. Parliament shall establish a Railway and Harbour Fund into which shall be paid all revenues raised or received by the Governor-General in Council from the administration of railways, ports and harbours, and such fund shall be appropriated by Parliament to the purposes of railways, ports and harbours, on such conditions and in such manner as it may prescribe. There shall also be formed a consolidated revenue fund into which shall be paid all other revenues raised or received by the Governor-General in Council and such fund shall be appropriated by Parliament for the purpose of the Commonwealth in the manner prescribed by this Act or by rules made in that behalf and subject to the charges imposed thereby.

71. There shall be charged on the revenues of India alone—(a) all the debts of the East India Company; and (b) all sums of money, costs, charges and expenses which, if the Government of India Act, 1858, the Government of India Act, 1915 as amended by the Government of India Act, 1919 or this Act had not been passed, would have been paid by the East India Company out of the revenues of India in respect of any treaties, covenants, contracts, grants or liabilities existing at the commencement of this Act; and (c) all expenses, debts and liabilities lawfully contracted and incurred on account of the Government of India; and (d) all other charges and payments under this Act (except so far as is otherwise provided under this Act).

72. (i) As soon as may be after the establishment of the Commonwealth the Governor-General in Council shall appoint a Commission consisting of one representative from each province and...representatives of the government of the Commonwealth, and presided over by an officer of the Commonwealth, to institute an inquiry into (a) the sources of revenue which may be assigned to the government of the Commonwealth and to the governments of the provinces respectively with due regard to the efficient administration and development of the services or subjects under the respective control of either, and (b) the financial relations which should exist between the government of the Commonwealth and the governments of the provinces, and (c) the means to be adopted for giving effect to such relations. (ii) The said Commission shall appoint a committee to examine the whole question of the training of officers for the land, naval and air forces of the Commonwealth and the establishment of the requisite number of schools and colleges for military instruction. (iii) The committee so appointed shall report to the Commission about the requisite number of such schools and colleges and their staffs, the places where they are to be established, and the standard of instruction to be imparted in each, and an estimate of the initial and maintenance cost of the said schools and colleges. (iv) The said Commission shall also appoint a committee to investigate and report on the steps to be taken for the

introduction of general primary education in the Commonwealth and the affording of special educational facilities for backward classes. (v) The said Commission shall have the power to appoint such other committees as it may consider necessary, for the purposes of its inquiry. (vi) The said Commission shall report to the Governor-General in Council on matters recommended in clause (i), and shall make special recommendations fixing minimum charges on the revenues of the Commonwealth and the provinces for the purposes mentioned in (ii), (iii) and (iv).

73. The Governor-General in Council shall lay the entire report of the Commission together with his recommendations before Parliament for such legislative or other action as it may deem fit.

74. Pending the completion of the said enquiry, and until Parliament has taken action under clause 68, the existing sources of revenue and the financial relations shall continue to be in force.

#### DEFENCE

75. (a) The Governor-General in Council shall appoint a Committee of Defence consisting of (1) the Prime Minister, (2) the Minister of Defence, (3) the Minister of Foreign Affairs, (4) the Commander-in-Chief, (5) the Commander of the Air Forces, (6) the Commander of the Naval Forces, (7) the Chief of the General Staff, and two other experts. (b) The Prime Minister shall be the chairman of the Committee; and there shall be a permanent staff including a secretary attached to this Committee. (c) The functions of this Committee shall be to advise the government and the various departments concerned with questions of defence and upon general questions of policy. (d) As soon as the Committee is appointed the Governor-General in Council may take the advice of the Committee of Defence as to the practicability and means of effecting a retrenchment in the expenditure on defence compatibly with the safety of India. The estimates shall be framed according to the recommendations of the Committee.

76. The proposals of the Governor-General in Council for the appropriation of revenues or monies classified as "Defence", shall be submitted to the vote of the House of the Representatives.

77. Notwithstanding anything to the contrary in the foregoing provisions, the Governor-General in Council may, in the event of any foreign aggression on India by land, air or sea, or upon his being satisfied that there is a reasonable apprehension of such aggression, authorise such expenditure as may be necessary for the safety of British India or any part thereof. Such action taken by the Governor-General shall be reported by him immediately to the legislature, if in session, or if the legislature is not in session, to a special session to be summoned as soon as possible thereafter.

78. No measure affecting the discipline or maintenance of any part of the military, naval and air forces of the Commonwealth shall be introduced in Parliament except on the recommendation of the Committee of Defence appointed under this constitution.

#### THE CIVIL SERVICES

79. Subject to the provisions of the next succeeding section, all officers of the public services shall, at the establishment of the Commonwealth, become officers of the Commonwealth.

80. As soon as possible after the establishment of the Commonwealth, the Governor-General in Council shall appoint a Public Service Commission to make recommendations for such reorganization and readjustment of the departments of the public services as may be necessary.

81. Parliament may make laws for regulating the classification of the civil services in India, the sources and methods of their recruitment, the conditions of service, pay and allowances and discipline and conduct. Parliament may also, to such extent and in respect of such matters as it may prescribe, delegate the power of making rules under the said laws to the Governor-General in Council or to local governments.

82. (i) After the establishment of the Commonwealth the Governor-General in Council shall appoint a permanent Public Service Commission with such powers and duties relating to the recruitment, appointment, discipline, retirement and superannuation of public officers as Parliament shall determine. (ii) Members of the permanent Public Service Commission shall hold office for five years from the date of appointment.

83. Any officer of the Public Services who desires to retire within three years of the establishment of the Commonwealth, or is not retained in the service of the Commonwealth, shall be entitled to receive such pension, gratuity or other compensation as he would have received in like circumstances if the Commonwealth had not been established.

#### THE ARMY SERVICES

84. All officers, British and Indian, serving in the army, the navy, the Royal Indian Marine, or the Air Force of India, serving in India at the commencement of the new constitution, shall retain all their existing rights as to salaries, allowances or pensions or shall receive such compensation for the loss of any of them, as the Governor-General in Council may consider just and equitable, or as they would have received in like circumstances if the Commonwealth had not been established.

Further all such officers, British or Indian, who were in receipt of such pensions at the date of the commencement of the new constitution, shall continue to receive the same pension from the revenues of India.

## INDIAN STATES

85. The Commonwealth shall exercise the same rights in relation to, and discharge the same obligations towards, the Indian States, arising out of treaties or otherwise, as the Government of India has hitherto exercised and discharged.

In case of any difference between the Commonwealth and any Indian State on any matter arising out of treaties, engagements, *sanads* or similar other documents, the Governor-General in Council, may with the consent of the State concerned, refer the said matter to the Supreme Court for its decision.

## NEW PROVINCES

86. The redistribution of provinces should take place on a linguistic basis on the demand of the majority of the population of the area concerned, subject to financial and administrative considerations.

## AMENDMENT OF THE CONSTITUTION

87. Parliament may, by law, repeal or alter any of the provisions of the constitution. Provided that the bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together and at the third reading shall be agreed to by not less than two-thirds of the total number of the members of both Houses. A bill so passed at such a joint sitting shall be taken to have been duly passed by both Houses of Parliament.

*Note.*—The following are the recommendations on Communal and other controversial matters.

## COMMUNAL REPRESENTATION

I. There shall be joint mixed electorates throughout India for the House of Representatives and the provincial legislatures.

II. There shall be no reservation of seats for the House of Representatives except for Muslims in provinces where they are in a minority and non-Muslims in the N. W. F. Province. Such reservation will be in strict proportion to the Muslim population in every province where they are in a minority and in proportion to the non-Muslim population in N. W. F. Province. The Muslims or non-Muslims where reservation is allowed to them shall have the right to contest additional seats.

III. In the provinces—(a) there shall be no reservation of seats for any community in the Punjab and Bengal; (b) in provinces other than the Punjab and Bengal there will be reservation of seats for Muslim minorities on population basis with the right to contest additional seats; (c) in the



N. W. F. Province there shall be similar reservation of seats for non-Muslims with the right to contest other seats.

IV. Reservation of seats where allowed shall be for a fixed period of ten years.

*Redistribution and Status of Provinces*

V. Sind should be separated from Bombay and constituted into a separate province after such enquiry about the financial position as may be considered necessary.

VI. Parts of the Karnataka, except the small islands on the other side of the Mysore territory, should similarly be separated from the provinces in which they are at present included and formed into a single separate province.

VII. The N. W. F. Province, and all newly formed provinces by separation from other provinces, shall have the same form of government as the other provinces in India.

## SWARAJ PARTY RESOLUTION ON THE WHITE PAPER AND THE COMMUNAL AWARD

May 1934

*[In March, 1933, the British Government issued a White Paper outlining their proposals for constitutional reforms in India, which were later examined by a Joint Parliamentary Committee and, with some modifications, embodied in the Government of India Act, 1935. The proposals were found unacceptable by nationalist Indian opinion. On May 3, 1934, meeting at Ranchi under the presidency of M. A. Ansari, the Swaraj Party\* Conference passed a resolution rejecting the White Paper proposals and demanding the convening of a Constituent Assembly to frame an acceptable constitution for India. This was the first time that the demand for a Constituent Assembly for India as such was formally put forward. The text of the resolution is reproduced below.]*

WHEREAS THIS CONFERENCE is of opinion that the proposals of His Majesty's Government for the new Constitution for the Government of India contained in the White Paper are considered as a whole not only a negation of the National Demand made by Mr. Gandhi on behalf of the Congress at the Second R.T.C. [Round Table Conference] and calculated to perpetuate the political subjection and economic exploitation of the Indian people, this Conference resolves that the Swaraj Party should take all necessary steps to secure the rejection of these proposals by the country.

This Conference claims for India, in common with other nations, the right of self-determination and is of opinion that the only method of applying that principle is to convene a Constituent Assembly representative of all sections of the Indian people to frame an acceptable Constitution.

The Conference is further of opinion that a consideration of the acceptance or rejection of the mode and proportion of representation as contained in the Communal Award is premature at this stage. The time for considering the same will arrive when the Constituent Assembly is convened.

\*The Swaraj Party was formed as the Parliamentary Wing of the Congress by C. R. Das and Motilal Nehru in 1922.

## CONGRESS RESOLUTION ON THE WHITE PAPER AND THE COMMUNAL AWARD

June 1934

*[On June 17-18, 1934, by its resolution on the British Government's White Paper, the Congress Working Committee raised the demand for a Constituent Assembly for India as part of the party's policy on the constitutional and communal issues facing the country. Thenceforth the demand was repeated by the Congress frequently and with increasing force. The text of the resolution is reproduced below.]*

THE WHITE PAPER in no way expresses the will of the people of India, has been more or less condemned by almost all the Indian political parties and falls far short of the Congress goal if it does not retard the progress towards it. The only satisfactory alternative to the White Paper is a constitution drawn up by a Constituent Assembly elected on the basis of adult suffrage or as near it as possible, with the power, if necessary, to the important minorities to have their representatives elected exclusively by the electors belonging to such minorities.

The White Paper lapsing, the Communal Award must lapse automatically. Among other things it will be the duty of the Constituent Assembly to determine the method of representation of important minorities and make provision for otherwise safeguarding their interests.

Since, however, the different communities in the country are sharply divided on the question of the Communal Award, it is necessary to define the Congress attitude on it. The Congress claims to represent equally all the communities composing the Indian nation and therefore, in view of the division of opinion, can neither accept nor reject the Communal Award as long as the division of opinion lasts.

At the same time it is necessary to redeclare the policy of the Congress on the Communal question :

No solution that is not purely national can be propounded by the Congress. But the Congress is pledged to accept any solution falling short of the national, which is agreed to by all the parties concerned and, conversely, to reject any solution which is not agreed to by any of the said parties.

Judged by the national standard the Communal Award is wholly

unsatisfactory, besides being open to serious objections on other grounds.

It is, however, obvious that the only way to prevent untoward consequences of the Communal Award is to explore ways and means of arriving at an agreed solution and not by any appeal on the essentially domestic question to the British Government or any other outside authority.

CONGRESS RESOLUTION ON THE JOINT  
PARLIAMENTARY COMMITTEE REPORT  
December 1934

*[The Working Committee of the All-India Congress Committee at its meeting held on December 5-7, 1934 at Patna adopted a resolution rejecting the scheme of Indian Constitutional Reforms recommended in the Report of the Joint Parliamentary Committee (1933-34), and reiterating its view that the only satisfactory alternative to the scheme was a constitution drawn up by a Constituent Assembly. The text of the resolution is reproduced below.]*

WHEREAS THE CONGRESS has after full and earnest consideration resolved that the scheme of the future Government of India adumbrated in the White Paper be rejected and the only satisfactory alternative is a constitution drawn up by a Constituent Assembly :

And the said rejection and demand for a Constituent Assembly has been endorsed in a clear and unambiguous manner by the country at the recent general election to the Legislative Assembly :

And whereas the Joint Parliamentary Committee scheme designed as it is to facilitate and perpetuate the domination and exploitation of this country by an alien people under a costly mask is fraught with greater mischief and danger than even the present constitution :

This Committee is of opinion that the said scheme should be rejected, well knowing that the rejection must involve the necessity of struggling under the present constitution, humiliating and intolerable as it is, until it is replaced by one framed by a Constituent Assembly in accordance with the Congress resolution on the subject.

This Committee requests the members of the Assembly to reject the scheme of Government sought to be thrust upon India in the name of reform and appeals to the nation to support the Congress in every step that it may decide upon to secure the national objective of *Purna Swaraj*.

CONGRESS RESOLUTION ON THE GOVERNMENT  
OF INDIA ACT, 1935  
April 1936

*[By a comprehensive resolution adopted at its 49th session held at Lucknow on April 12-14, 1936, the Indian National Congress totally rejected the new constitution, firmly declared that no constitution imposed by an outside authority could be accepted and stressed the demand for a Constituent Assembly. The relevant extracts from the resolution are reproduced below.]*

WHEREAS THE GOVERNMENT OF INDIA ACT, 1935, which is based on the White Paper and Joint Parliamentary Committee Report and which is in many respects even worse than the proposals contained in them, in no way represents the will of the nation, is designed to facilitate and perpetuate the domination and exploitation of the people of India and is imposed on the country to the accompaniment of widespread repression and the suppression of civil liberties, the Congress reiterates its rejection of the new constitution in its entirety.

The Congress, as representing the will of the Indian people for national freedom and a democratic state, declares that no constitution imposed by outside authority and no constitution which curtails the sovereignty of the people of India and does not recognize their right to shape and control fully their political and economic future can be accepted. In the opinion of the Congress such a constitution must be based on the independence of India as a nation and it can only be framed by a Constituent Assembly elected on adult franchise or a franchise which approximates to it as nearly as possible. The Congress therefore reiterates and stresses the demand for a Constituent Assembly in the name of the Indian people and calls upon its representatives and members in Legislatures and outside to work for the fulfilment of this demand.

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## NEHRU'S PRESIDENTIAL ADDRESS AT THE FAIZPUR CONGRESS December 1936

*[On December 27, 1936, in his presidential speech at the Faizpur session of the Indian National Congress, Jawaharlal Nehru described the demand for a Constituent Assembly, elected on the basis of adult suffrage, as the 'corner-stone of Congress policy today'. The relevant extracts from the speech are reproduced below.]*

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WITH THE EFFORT to fight the Act (Government of India Act, 1935), and as a corollary to it, we have to stress our positive demand for a Constituent Assembly elected under adult suffrage. That is the very corner-stone of Congress policy today and our election campaign must be based on it. This Assembly must not be conceived as something emanating from the British Government or as a compromise with British imperialism. If it is to have any reality, it must have the will of the people behind it and the organized strength of the masses to support it, and the power to draw up the constitution of a free India. We have to create that mass support for it through these elections and later through our other activities.

The Working Committee has recommended to this Congress that a Convention of all Congress members of all the legislatures, and such other persons as the Committee might wish to add to them, should meet soon after the election to put forward the demand for the Constituent Assembly, and determine how to oppose, by all feasible methods, the introduction of the Federal structure of the Act. Such a Convention, which must include the members of the All-India Congress Committee, should help us greatly in focussing our struggle and giving it proper direction in the legislatures and outside. It will prevent the Congress members of the legislatures from developing provincialism and getting entangled in minor provincial matters. It will give them the right perspective and a sense of all-India discipline, and it should help greatly in developing mass activities on a large scale. The idea is full of big possibility and I trust the Congress will approve of it.

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## FAIZPUR CONGRESS RESOLUTIONS

December 1936

*[At its 1936 session held at Faizpur, the Working Committee of the Indian National Congress adopted two resolutions, one dealing with the elections and the Constituent Assembly and the other with a Constitution Convention. In a circular letter issued to the Provincial Congress Committees, the Congress President inter alia explained the two resolutions on the elections and Constituent Assembly and on the Constitution Convention. The proposed Constituent Assembly, the circular said, was very different from an All Party Conference. It would be a grand Panchayat of the nation, elected on adult franchise, meeting when the reality of power has already shifted to the people so that they can give effect to their decisions without any interference from outside authority. The Constitution Convention is not a substitute for the Constituent Assembly but a preparation for it. The texts of the two resolutions are reproduced below.]*

## (I) RESOLUTION ON ELECTIONS AND THE CONSTITUENT ASSEMBLY

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THE CONGRESS DOES not and will not recognize the right of any external power or authority to dictate the political and economic structure of India, and every such attempt will be met by organized and uncompromising opposition of the Indian people. The Indian people can only recognize a constitutional structure which has been framed by them and which is based on the independence of India as a nation and which allows them full scope for development according to their hopes and desires.

The Congress stands for a genuine democratic State in India where political power has been transferred to the people as a whole and the government is under their effective control. Such a State can only come into existence through a Constituent Assembly, elected by adult suffrage, and having the power to determine finally the constitution of the country. To this end the Congress works in the country and organises the masses, and this objective must ever be kept in view by the representatives of the Congress in the legislatures.



The Congress endorses the Election Manifesto of the A.I.C.C. and calls upon candidates, standing on its behalf, to carry on their election campaign strictly on its basis and after election, to conduct their work in the legislatures in accordance with it. Congress members of the legislatures should take the earliest opportunity to put forward in the new Assemblies the demand for a Constituent Assembly, elected by adult suffrage, and this demand should be supported by a mass agitation outside to enforce the right of the Indian people to self-determination.

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## (II) RESOLUTION ON AN ALL INDIA CONVENTION OF LEGISLATORS

This Congress resolves that, after the elections to the Provincial Legislatures, a Convention shall be held consisting of the Congress members of the various Provincial and Central Legislatures, members of the All-India Congress Committee and such other persons as the Working Committee might decide upon. This Convention shall put the demands for Constituent Assembly in the forefront and shall determine feasible methods for ending the constitution in the provinces and for opposing the introduction of the Federal Structure of the new constitution and will consider what other steps should be taken in the Legislatures to give effect to the policy laid down in the Congress Election Manifesto and Congress resolutions and the decisions of the All-India Congress Committee. The Working Committee shall take the necessary steps for the calling of this Convention and shall lay down the procedure governing it.

## CONGRESS RESOLUTION ON THE DEMAND FOR A CONSTITUENT ASSEMBLY AND WITHDRAWAL OF THE 1935 CONSTITUTION March 1937

*[Following a decisive Congress victory in the first elections to the Provincial Legislatures under the Government of India Act, 1935 (with a majority in seven out of eleven provinces), the All-India Congress Committee adopted, at Delhi, on March 18, 1937, a resolution asserting the electorate's approval of the demand for a Constituent Assembly and seeking withdrawal of the 1935 Act which was to come into force on April 1, 1937. The relevant extracts from the resolution are reproduced below.]*

THE ALL-INDIA CONGRESS COMMITTEE records its high appreciation of the magnificent response of the country to the call of the Congress during the recent elections and the approval by the electorate of the Congress policy and programme. The Congress entered these elections with its objective of independence and its total rejection of the new constitution, and the demand for a Constituent Assembly to frame India's constitution. The declared Congress policy was to combat the new Act and end it. The electorate has, in overwhelming measure, set its seal on this policy and programme and the new Act therefore stands condemned and utterly rejected by the people through the self-same democratic process which had been evoked by the British Government, and the people have further declared that they desire to frame their own constitution, based on national independence, through the medium of a Constituent Assembly elected by adult franchise. This Committee therefore demands, on behalf of the people of India, that the new constitution be withdrawn.

In the event of the British Government still persisting with the new constitution, in defiance of the declared will of the people, the All-India Congress Committee desires to impress upon all Congress members of the Legislatures that their work inside and outside the Legislatures must be based on the fundamental Congress policy of combating the new constitution and seeking to end it, a policy on the basis of which they sought the suffrage of the electorate and won their overwhelming victory in the elections. That

policy must inevitably lead to deadlocks with the British Government and bring out still further the inherent antagonism between British imperialism and Indian nationalism, and expose the autocratic and undemocratic nature of the new constitution.

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## THE NATIONAL CONVENTION OF CONGRESS LEGISLATORS March 1937

*[In pursuance of the Faizpur Congress (1936) Resolution the All-India National Convention of Congress Legislators met at Delhi on March 19 and 20, 1937. In his presidential address to the Convention, Jawaharlal Nehru declared that the Government of India Act, 1935, must go 'lock, stock and barrel and leave the field open for our Constituent Assembly'. He reminded Congress legislators that their work was 'primarily to fight the Act and press and work for a Constituent Assembly'. 'The National Demand' resolution adopted by the Convention reiterated the Congress policy of seeking withdrawal of the 1935 Act and recognition of the right of the Indian people to frame their own constitution. The texts of Nehru's presidential address and the resolution are reproduced below.]*

### (I) NEHRU'S PRESIDENTIAL ADDRESS

WE ARE USED to our Congress gatherings, vast and impressive and representing the will of the Indian people for freedom. Behind them lie half a century of our country's history and a tradition of growth and change and adaptation to fresh needs and new situations. But today we meet in this Convention under novel conditions, for this Convention has no background except what we choose to give it, has no future except such as we determine. Well-established institutions and organisations develop in the course of time a certain will and momentum which carry them forward almost apart from the desires of their constituent elements. They have an individuality which expresses itself in its own particular way, a certain stability and steadiness of purpose, as well as a certain conservatism. They do not easily move out of their moorings; like an elephant, they are heavy of movement, but when they move, they have all the greater momentum, and they change the shape of things. Such is our Congress.

But this Convention is new and few people seem to know what it is or what it is going to be. Some doubt is justified; and yet all of us know well our moorings and our purpose, and though, as a Convention, we may be

new, we have our roots in those past struggles which are written in the history of the Congress and our freedom movement. This Convention is a child of the Congress, looking to it for strength and guidance.

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The elections have many lessons to teach us but the outstanding fact is this : Where we went to the masses direct we won overwhelmingly. Our partial lack of success in some provinces was clearly due to the Congress organisation there being confined to the cities and having little contact with the peasantry. We must remedy these failings and speak more and more the language of the masses and fashion our policy to meet their needs. We must carry the Congress organisation to every village, the Congress message to every mud hut.

I have referred to some of our failings and some of our failures. It is well to remember these and not to allow ourselves to be swept away by success into forgetting them. We build for the future and our foundations must be well and truly laid. To win an election is a small matter for us; we are out to win the freedom of our people.

Having disposed of these failures let me refer to the success that has come to us, for it is this tremendous success, not surprising for us who know our people, but astounding and upsetting to others, that is the outstanding feature of these elections. How carefully and lovingly the Government had nursed the great vested interests of India, encouraged the big landlords and communalists, helped them to organise themselves to oppose us, and looked confidently for success in its evil venture ! Where are they now, these pillars of imperialism in India and exploiters of the Indian people? Sunk almost without trace, overwhelmed by the sea of Indian humanity, swept away by the big broom of the masses from the political scene. Like a house of cards, they have fallen at the touch of reality; even so will others go who oppose India's freedom, and a day will come when British imperialism throttles and crushes our people no more and is a dream of the past for us.

We went to our people and spoke to them of freedom and the ending of their exploitation; we went to that forgotten creature, the Indian peasant, and remembered that his poverty was the basic problem of India; we identified ourselves with him in his suffering and talked to him of how to get rid of it through political and social freedom. We told him of imperialism and of this new Act and constitution which bind us still further and which we were out to end and replace by *panchayati raj*, fashioned by a Constituent Assembly, a grand *panchayat* of the nation, elected by all our people. We read out to him our Election Manifesto and explained its substance. He and his kind gathered in vast numbers to hear us and, listening to the Congress message, his sunken eyes glistened and his shrunken

starved body rose up in enthusiasm and the wine of hope filled his veins. Who that saw that vision can forget it, or that subsequent sight of thousands marching to the polling booths in disciplined array, ignoring pressure and threat, disdaining the free conveyances and free food offered to them by our opponents? It was a pilgrimage for them to give their allegiance to the Congress, to vote for the ending of the new constitution, for the establishment of *panchayati raj* when they would themselves have power to liquidate the poverty that consumed them.

That is the significance of this election. If there is any meaning in democracy, if this complicated and expensive apparatus of election and voting has any sense behind it and is not an impertinent farce, then the Indian people have spoken, so that even the deaf might hear, and proclaimed that they will not have this constitution. They have given notice to quit to British imperialism. This constitution must therefore go, lock, stock and barrel, and leave the field clear for our Constituent Assembly.

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What is this independence? A clear, definite, ringing word, which all the world understands, with no possibility of ambiguity. And yet, to our misfortune, even that word has become an object of interpretation and misinterpretation. Let us be clear about it. Independence means national freedom in the fullest sense of the word : it means, as our pledge has stated, a severance of the British connection. It means anti-imperialism and no compromise with empire. Words are hurled at us; Dominion status, Statute of Westminster, British Commonwealth of Nations, and we quibble about their meaning. I see no real commonwealth anywhere, only an empire exploiting the Indian people and numerous other peoples in different parts of the world. I want my country to have nothing to do with this enormous engine of exploitation in Asia and Africa. If this engine goes, we have nothing but goodwill for England, and in any event we wish to be friends with the mass of the British people.

Dominion status is a term which arose under peculiar circumstances and it changed its significance as time passed. In the British group of nations, it signified a certain European dominating group exploiting numerous subject peoples. This distinction continues whatever change the Statute of Westminster might have brought about in the relation *inter se* of the members of that European dominating group. That group represents British imperialism and it stands in the world today for the very order and forces of reaction against which we struggle. How then can we associate ourselves willingly with this order and these forces? Or is it conceived that we might, in the course of time and if we behave ourselves, be promoted from the subject group to the dominating group and yet the imperialist structure and basis of the whole will remain more or less as it is? This is a vain conception

having no relation to reality, and even if it were within the realms of possibility, we should have none of it, for we would then become partners in imperialism and in the exploitation of others. And among these others would probably be large numbers of our own people.

It is said, and I believe Gandhiji holds this view, that if we achieved national freedom, this would mean the end of British imperialism in India, and necessary result of this would be the winding up of British imperialism itself. Under such conditions there is no reason why we should not continue our connection with Britain. There is force in the argument, for our quarrel is not with Britain or the British people, but with British imperialism. But when we think in these terms, a large and a different world comes into our ken, and Dominion status and the Statute of Westminster pass away from the present to the historical past. That larger world does not think of a British group of nations, but of a world group based on political and social freedom.

To talk, therefore, of Dominion status, in its widest significance, even including the right to separate, is to confine ourselves to one group, which of necessity will oppose and be opposed by other groups, and which will essentially be based on the present decaying social order. Therefore we cannot entertain this idea of Dominion status in any shape or form; it is independence we want, not any particular status. Under cover of that phrase, the tentacles of imperialism will creep up and hold us in their grip, though the outer structure might be good to look at.

And so our pledge must hold and we must labour for the severance of the British connection. But let us repeat again that we favour no policy of isolation or aggressive nationalism, as the word is understood in the Central European countries today. We shall have the closest of contacts, we hope, with all progressive countries including England, if she has shed her imperialism.

But all this discussion about Dominion status is academic talk. It is many years now since India put that idea by and there can be no reversion to it. Today, with the whole world in the cauldron of change and disaster threatening it, this lawyer's jargon seems strangely out of place. What counts today for us is to break and end this constitution. What counts for the world is Spain and British rearmament and the French armament loan and the frantic and terrific race to be ready for war before this catastrophe comes to overwhelm civilisation. When will this come, suddenly and unannounced, and make a wreck of the modern world? That is the question for you and all of us, for on our answer and on our ability to cope with this crisis will depend the future of the Indian people. We have bigger decisions to take, graver choices before us, than those of lawyers' making.

Congress members of the Legislatures have their work cut out for them by Congress resolutions. That work is primarily to fight the Act and press and work for a Constituent Assembly. Some people, in their ignorance, have imagined that this Convention is itself the Constituent Assembly, and that it is going to draft a new constitution for India. This Convention is going to do no such thing. That is not its function and the time for drawing up India's constitution is not yet. Nor is the Constituent Assembly a magnified All Parties Conference. The Constituent Assembly that we demand will come into being only as the expression of the will and the strength of the Indian people; it will function when it has sanctions behind it to give effect to its decisions without reference to outside authority. It will represent the sovereignty of the Indian people and will meet as the arbiter of our destiny.

How can this Assembly meet today when British imperialism holds forcible sway here with its armies of occupation, and spies and informers and secret service, and the denial of civil liberty; when so many of our loved ones and comrades languish in prison or detention camp; when this monstrous constitution has been imposed upon us, despite our indignant repudiation of it?

Therefore, let us be clear about it. There is no room for a Constituent Assembly in India till we have in effect removed these burdens and obstructions, and the will of the Indian people can have sovereign play. And, till then, there is no room in India for any other constitution imposed upon us; there is room only, unhappily, for conflict and struggle between an imperialism that dominates and a nationalism that seeks deliverance. That nationalism is no weakling today and, though it may have to wait awhile for its deliverance, it will not tolerate domination and dictation.

So we are told by the Congress to go to the legislatures not to co-operate, for this so-called co-operation would only be another name for submission to dictation, but to fight the Act. Whatever decision we might take on other issues, that basic policy remains and must remain. Inevitably it follows that we cannot have any alliances with individuals and groups who do not subscribe to this policy.

It is within this narrow framework that we have to consider the question of office acceptance. That question will have been decided by the All-India Congress Committee by the time we meet in Convention and I stand before you, and by that decision this Convention will be bound. So I cannot say much about it here. I have often given expression to my views on this subject and our electoral victory has not changed them in any way. But we have to remember that whatever the decision of the All-India Congress Committee might be, the whole logic of Congress resolutions and declarations and policy leads us to maintain a spirit of non-co-operation towards this constitution and Act. Ordinarily in a democratic constitution to have a majority means an acceptance of ministerial responsibility. To refuse



responsibility and power when a democratic process offers it to us is illogical and improper. But we have neither democracy nor power in this constitution; the illogicality and contradiction lie in the constitution itself. Are we to twist and distort ourselves, to fit in with this perversion? Therefore, whatever else we might do that spirit of non-co-operation and struggle against British imperialism must pervade our efforts.

Many of you are eager and desirous of doing something to relieve the burdens of our masses, to help the peasant and the worker and the vast numbers of middle-class unemployed. Who does not want to do that? No one likes conflict and obstruction, and we have hungered so long for real opportunities for serving our people through constructive effort. They cry aloud for succour, these unhappy millions of our countrymen, and even when their voices are silent, their dumb eyes are eloquent with appeal. It is difficult to live in this country surrounded by this human desolation and misery, unspoken often and the harder to bear because of that. We talk of *Swaraj* and independence, but in human terms it means relief to the masses from their unutterable sorrow and misery. Ultimately all that we work for resolves itself into that. And if we have a chance to give such relief even in a small measure, we cannot reject it.

## (II) THE NATIONAL DEMAND RESOLUTION

This Convention reiterates the opinion of the people of India that the Government of India Act of 1935 has been designed to perpetuate the subjection and exploitation of the Indian people and so strengthen the hold of British imperialism on India.

The Convention declares that the Indian people do not recognize the right of any external power or authority to dictate the political and economic structure of India. The Indian people will only accept a constitutional structure framed by them and based on the independence of India as a nation and which allows them full scope for development according to their needs and desires.

The Convention stands for a genuine democratic State in India where political power has been transferred to the people as a whole. Such a State can only be created by the Indian people themselves through the medium of a Constituent Assembly elected on the basis of adult suffrage, and having the power to determine finally the constitution of the country.

The electorate has, in overwhelming measure, set its seal on the Congress objective of independence and the rejection of the new constitution. The constitution therefore stands condemned and utterly rejected by the people through the self-same democratic process which had been invoked by the British Government and the people have further declared that they desire to frame their own constitution based on the national independence through the medium of a Constituent Assembly.

The Convention therefore calls upon all Congress Parliamentary Parties to take the earliest opportunity to put forward in the name of the nation, a demand in their respective Legislatures that the Government of India Act, 1935, be withdrawn so that the people of India may frame their own constitution.

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### RESOLUTION IN PROVINCIAL ASSEMBLIES REGARDING THE CONSTITUENT ASSEMBLY 1937

*[In August-October 1937, a resolution reiterating the Congress demand for the withdrawal of the 1935 Act and the convening of a Constituent Assembly to frame a new constitution was adopted by the Provincial Assembly of each of the Provinces\* where the Congress held office as well as by the Sind Assembly. The text of the resolution is reproduced below.]*

THIS ASSEMBLY IS of opinion that the Government of India Act, 1935, in no way represents the Will of the Nation and is wholly unsatisfactory as it has been designed to perpetuate the subjection of the people of India. The Assembly demands that this should be repealed and replaced by a constitution for a free India framed by a Constituent Assembly elected on the basis of adult franchise, which allows the Indian people full scope for development according to their needs and desires.

\*Bihar, Bombay, Central Provinces, Orissa, United Provinces, North-West Frontier Province and Madras

## RESOLUTION IN THE CENTRAL ASSEMBLY REGARDING THE CONSTITUENT ASSEMBLY September 1937

*[A resolution recommending replacement of the Government of India Act, 1935, by a constitution framed by a Constituent Assembly, was moved in the Central Legislative Assembly on September 17, 1937, by S. Satyamurti. Speaking on the resolution, Satyamurti urged the Government to recognise the force and the reasonableness of the demand for a Constituent Assembly. He dealt at length with many objectionable features of the 1935 Act. There was some interesting discussion on the resolution, but no decision. The text of the resolution and Satyamurti's speech are reproduced below.]*

### (I) THE RESOLUTION

THAT THIS ASSEMBLY recommends to the Governor-General in Council to convey to the Secretary of State for India and to the British Government the opinion of the House that the Government of India Act, 1935, in no way represents the will of the nation and is wholly unsatisfactory and should be replaced by a constitution framed by a Constituent Assembly elected on the basis of adult franchise.

### (II) SATYAMURTI'S SPEECH

I desire to preface my speech with a statement of fact. I am moving this motion not merely as a humble member of the Opposition in this House, but as a humble representative of the Indian National Congress which now governs 7 out of the 11 provinces in India and hopes to govern the other four provinces very soon. Therefore, the Resolution is not of a so-called irresponsible opposition, but of the most responsible body governing this country in the provincial sphere. This Resolution states three facts: first, that the Government of India Act, 1935 in no way represents the will of the nation; secondly that it is wholly unsatisfactory; thirdly that it should be replaced by a constitution framed by a Constituent Assembly elected on the basis of adult franchise. Now, I also want to add one more fact. In

all the seven provincial legislatures and in Sind, this resolution with the words "Constituent Assembly" has been passed already or will very soon be passed. No objection has been taken by any minority, much less by any Moslem minority, in any of these provinces to the phrase "Constituent Assembly". Amendments have been moved and have been accepted or will be moved and will be accepted, but no amendment touches this phrase "Constituent Assembly"; and I submit that the Muslim members of the provincial legislatures—I mean no offence to Honourable Members of this House—as a matter of fact represent much larger Muslim separate electorates and represent lakhs and lakhs of Muslim voters throughout the country...

...With regard to this phrase "Constituent Assembly," I desire to remind this House, if I may, that, historically speaking, that phrase stands for the Assembly representing the sovereign will of a people, after they have overthrown their Government by a violent revolution. That is the history of it; but the last page in the history of the world has not yet been written and, thank God, there is a great man in this country who can still write pages of eloquent history; and, therefore, I want to submit to this House, with a full sense of my responsibility, that the Congress, standing as it does by the creed of non-violence, when it talks of a Constituent Assembly, can only mean an Assembly which comes in as the result of an agreement by the development of power in our people, compelling the present Government to agree to this Assembly. Therefore, there is no need to seek to confuse the issue, by trying to import considerations wholly irrelevant to the present question. Moreover, if Hon'ble Members of this House have read the recent articles of Mahatma Gandhi in the *Harijan* after our acceptance of office, they will have noticed a significant sentence in them that the Mahatma contemplates the transference of power to the people of this country by peaceful means, as a result of our agitation and our work. Therefore, the real point behind the phrase is this,—and I want my friends who object to the words "Constituent Assembly" to take note of this. We want no more futile conferences, futile conventions, where we shall needlessly discuss, quarrel among ourselves and present the spectacle to the foreigner and to the Government of a people who cannot settle their own affairs. On the other hand, we want from this Assembly the elimination of the third party altogether and we want an Assembly whose decisions shall be final and binding on the British Parliament. That is the real object of this Constituent Assembly. We have had enough of these conferences, round table, and square table and it is time we cried halt to such conferences.

Then, Sir, this Resolution refers to adult franchise which must make an instinctive appeal to the heart of every Hon'ble member of this House, and certainly to every Muslim member who by his religion believes in democracy. We stand for adult franchise, no disqualification by birth, caste, race or religion or wealth; we want every man and woman in this country, to have a voice in the shaping of the constitution of this country. Can anybody

object to that? Why do you want then separate communities, separate classes, and separate electorates? I want my friends to notice that, in this Resolution, we swear by adult franchise; we do not want the scales to be weighted in favour of anybody for reasons of wealth or birth.

...We believe the Communal Award is anti-national and anti-democratic. We believe that separate electorates are wholly inconsistent with any conception of democracy or democratic Government. We believe that in the modern secular State, a citizen has nothing to do with caste or religion; a legislature ought to be composed of the most eminent representatives of the people; but, today, Sir, what is the madness—I cannot vote for Mr. Jinnah; even if I wanted to vote for him, I must vote for my friend, Mr. Bhulabhai Desai, because Mr. Desai and I are Hindus and Mr. Jinnah is a Muslim. Is that correct? Is it consistent with any sense of democratic Government? We must, therefore, give up separate electorates. At the same time, the Congress realises that unless and until we can get an agreed settlement with the consent of all the communities concerned, it is impossible, it is futile to try to fight the Communal Award with the help of the third party. The Communal Award is there, not so much to help Muslims, let me repeat, but to help the perpetuation of British Imperialism in this country. Therefore, we want to fight British Imperialism with the help of our Muslim friends, with the help of all communities in this country, and that is why we say, in the absence of an agreed settlement, we must go on with it, but it does not mean that the Congress will acquiesce in it. The Congress is too much of a believer in democracy, in adult franchise, in responsible Government, to acquiesce in this, and we invite our friends to help us to press forward our claim for adult franchise. I trust, therefore, that our well-known differences on the Communal Award will not influence our judgment in voting on this Resolution.

Moreover, may I say this, Mr. President, the stand taken by the Congress has been justified by events? I do not believe that anybody who wanted to fight the Communal Award, apart from the Congress, has succeeded. I say it in no patronising spirit, but I want my friends to realise that the only way to get rid of the Communal Award is to unite this nation on the basis of a big fight for the freedom of this country.

Then, Sir, as regards the rights of minorities in free India, public memories are short, but I want my friends to read, learn, and inwardly digest the Resolution of the Karachi Congress on Fundamental Rights of Citizens. The Indian National Congress stands for adult franchise. The moment we get power in this country, we shall see, that whatever else happens or does not happen, every adult who is not a lunatic, who is not an undischarged insolvent, gets the franchise and gets his or her part in the government of this country. The Karachi Resolution guarantees freedom of worship and freedom of religious observance, to all communities and all religions, subject only to public order and public morality. Nobody can

object to that. And thirdly, we guarantee equality before law, that citizens, irrespective of sect, caste or religion, will be absolutely equal before the law. And as for the expenditure of the State, the Karachi Resolution guarantees that all citizens will get equal benefits. I submit that citizenship in the modern secular State is wholly consistent with this ideal and wholly inconsistent with any other ideal. And may I add that, as far as I can see, in a modern democratic government, all legitimate interests of minorities are bound to be protected by the very nature of the electorates? Of course, there are communalists today in my country, Hindu and Muslim, Sikh and others, who seek to exploit communal ignorance and communal prejudice for their own self-advancement. I have no respect or sympathy for them. They will go when India is free, when separate electorates go, and the earlier they go the better for the country.

...This Government of India Act of 1935 does not carry out even the recommendations of the Round Table Conferences. Secondly, it does not accept a single recommendation of the famous Aga Khan's Memorandum; thirdly, it is against the resolution of this House passed less than three years ago on the Joint Parliamentary Committee's Report; fourthly, it is against the resolutions of the Congress, the Muslim League, and all progressive bodies in this country. And the resolutions of the provincial legislatures have also confirmed this view that this Act does not represent the will of the nation, and last, but not the least, Mr. President, if you have read, as I am sure you have and the House has read, the many amendments, they will notice one significant fact, and it is this, there is no amendment to the Resolution up to the words "wholly unsatisfactory". Every section of the House agrees that this Act does not represent the will of the nation and is wholly unsatisfactory; the absence of any amendment proves that completely. As far as the constitution being wholly unsatisfactory, let me also give, Sir, very briefly a few facts. This House is directly elected today even on a direct franchise. Our successors will sit here as the representatives of pocket, and therefore, possibly rotten boroughs, consisting of 6 to 12 voters from members of the provincial lower Houses voting in communal compartments, on the basis of the single transferable vote, if you please. That is the first reactionary feature of this Government of India Act of 1935. Secondly, even today the other House has no financial powers, but under this Act the Upper House will have same financial powers of voting on the Budget and the Finance Bill, as the Legislative Assembly has. Thirdly, the Indian Princes will nominate one-third of the representatives of the Federal Legislature. Fourthly, diarchy in a worse form, diarchy which has been proved to be a hopeless failure, will be reintroduced at the centre. Fifthly, railways, banking, exchange and currency have already become or will soon become small *imperiums in imperio*, wholly irresponsible to the legislature; and sixthly, the Governor-General in Council will get out of the picture completely including the Indian members, so far as defence and

foreign affairs are concerned, and the Governor-General will then come completely into the picture. Having said that, may I say a word? This Federation which is being hatched for us in absolute secrecy is an unheard of Federation. I have not got the time to go into it at length but I may refer my honourable friends very briefly to section 6 of the Government of India Act, 1935, under which, according to sub-section (1) (a), the Ruler "declares that he accedes to the Federation as established under this Act, etc." But his accession shall always be subject to the terms of the Instrument of Accession, "but subject always to the terms thereof, and for the purposes only of the Federation, exercise in relation to his State such functions as may be vested in them by or under this Act". Therefore, the Instrument of Accession is far more important and binding on the State than the Government of India Act of 1935. Similarly, the Ruler is free to accept only such laws as he chooses to accept, and accept the administration of those laws only to the extent to which he chooses to accept. But the sting is in sub-section (5):

It shall be a term of every Instrument of Accession that the provisions of this Act mentioned in the Second Schedule thereto may, without affecting the accession of the State, be amended by or by authority of Parliament, but no such amendment shall, unless it is accepted by the Ruler in a supplementary Instrument, be construed as extending the functions which by virtue of the Instrument are exercisable by His Majesty or any Federal authority in relation to the State.

It comes to this. Once a State accedes to the Federation, it gets a voice with regard to the amendment of this Act. Although the section says, you can amend in very many matters, if Honourable Members will turn to the Second Schedule, they will find that the qualifications there are much bigger than the subjects on which the Government can legislate by way of amending this Act. On every matter,—Governor's safeguards, discretionary powers, qualifications of members, way of election,—all those safeguards against which we are now objecting cannot be changed even by the British Parliament so far as the States are concerned, without the consent of the Ruler of the State concerned.

So far as these Indian States are concerned, our objections to their joining the Federation on the present terms are briefly these. We believe that with rare exceptions, in most of these States there is no rule of law, not even so much rule of law as there is in British India, that people are detained or deported or externed or interned, property confiscated—anything happens without any recourse to any law or courts of law. Secondly, we want the representatives of these States on our legislature to be elected by the people of those States; we do not want the nominees of these States. Thirdly, we want that there should be a body of fundamental rights and of citizenship for the people of these States, and they should have ready access to the Federal Court, in cases of breach of those rights by their



Rulers. It seems to me that that is the minimum on which we can look upon the Indian States joining this Federation. But, Sir, while British India is being coerced more or less into the Federation, morning after morning I tried my best with the Leader of the House, but I drew a blank. Every time there is an organised conspiracy of silence on his part and on that of his colleagues to tell British India: "We shall go on with any negotiations with the Indian States, sacrifice Indian revenues, give up sovereignty, we will do anything we like but we will not say a word to this Legislature or consult British Indian opinion". It is going back on the principle behind the Round Table Conferences; at least there, they pretended to consult British Indian opinion. But today you want to go on with your Federation without so much as by leave of British India. How do you expect British Indian opinion to acquiesce in this experiment? The other day, the Maharaja of Patiala, the Chancellor of the Chamber of Princes, said that they were not eager to come into the Federation, but they were confronted with a situation wherein the extension of responsibility at the Centre was made contingent on the States' adherence to the principles of an All-India Federation. No, thanks! We neither want this Federation nor this so-called central responsibility; we do not want either. And our position is this. By all means make a Federation of the eleven self-governing provinces. Keep the door open for Indian States to come in on agreed honourable conditions. Good States will come in sooner or later; bad States may not come in; it is best that they do not come in. Then, His Highness the Maharaja concluded by saying:

Let it not be forgotten that, while our British Indian friends are concerned with the merits and demerits of the Government of India Act of 1935, we of the States have to examine the Act as well as each individual Instrument of Accession, and the latter even more than the former, because for us it is the Instrument that governs the Act.

That is a revealing picture of the relations between British India and Indian States. We have an Act enacted for us by the British Parliament. Their Highnesses are going to have separate Acts enacted, each for himself by their own Highnesses getting Instruments of Accession with the Government of India. Yesterday, in the *Statesman* in a leading article, and this morning in the *Hindustan Times* there are ominous rumours and suggestions that even the Government of India Act of 1935 can be and will be amended to suit their Highnesses' pleasure and convenience; and it does seem to me strange when we are told constantly as against the strong, well expressed unified British Indian public opinion that the Act is the last word, that negotiations are going on behind the scenes in order to oblige their Highnesses to persuade them or to coerce them to join the Federation by, if necessary, even amending the Act. This is more than a mere conspiracy of silence; it is almost a criminal conspiracy.

Now, I want to make one more point clear. When we say in this Resolution that this Act does not satisfy us and must go, we want to make it

clear that the acceptance of office by the Congress Ministries in the seven provinces cannot and does not mean acceptance of this Act in any form or to any degree. We have accepted office, Mr. President, in order to strengthen and unify this nation, in order to serve our people to the extent of the opportunities afforded to us, in order to remove the fear of Government in the minds of our people, to make our people strong and united and brave, and in order, above all, to convince all the minorities in the provinces that they have nothing to fear from the majorities that are governing the Congress provinces, that the minorities will have all their legitimate rights protected and that there is no danger for any legitimate interest of any minority in this country... They (the Government) are depending upon two classes of people, the communalists and the Princes,—Hindu communalists and Muslim communalists and the Princes. They will find that these communalists, the moment joint electorates come in, disappear and they are coming—the Honourable Sir Sikandar Hayat Khan, the Premier of the Punjab, and Sir Ghulam Hidayatullah, the Premier of Sind, have both said in public and private that they stand by joint electorates,—if this problem is treated on a province-wise basis and not on an all-India basis—and I am in favour of this—I have no doubt that in every province except perhaps in Bengal, the problem will be solved and we shall have joint electorates everywhere. Therefore, it seems to me, Mr. President, that joint electorates are coming, and when they come, these communalists who now strut on the political stage as leaders and try and mislead the people will find their occupation completely gone. I say a new race of nationalists, Muslim and Hindu, will take their place, who will fight the battle of the freedom of this country, and will not stoop to pick the crumbs thrown from the foreigner's dining table. They cannot rely on Indian Princes. I want to tell them that these Princes have sat so long on their backs that they have forgotten the art of walking or flying. They will find them broken reeds when the time comes. Therefore, I hope they will accept the Resolution.

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...Mahatma Gandhi said: "Let Congress accept office". The Congress accepted office. Mahatma Gandhi has said that Great Britain and India must either come to terms, or enter into one of the bitterest of struggles. Believe me, Mr. President, if the latter contingency arises, we will enter on the last and the bitterest struggle that India has ever engaged in. Therefore, I suggest, Mr. President, that this Resolution is a humble but definite indication of the desire and determination of the people of this country to be masters in their own home. It seems to me that all patriotic Indian members of this House, whose vote is free and their own, must whole-heartedly support the Resolution. It is not a question of the transfer of power from a white to a black or brown bureaucracy. On the other hand, we Congressmen are

pledged to *Swaraj* and independence, not for the transference of power into our hands, so much as that the people of this country should come by their own and live like free men and free women in this great country of ours and banish from it the evils of poverty, misery, and disease which beset her today.

...There is yet a chance, so long as Mahatma Gandhi lives, to arrive at a friendly settlement and grasp his hand of friendship. Let us go forward. Let us repeal this Act and get an agreed constitution which will give the millions of this country their rights. Therefore, I will conclude on this note of confidence that we shall attain the freedom of this country very soon, sooner than our friends hope and our enemies fear, and it is in that confidence that I move the Resolution, because, believe me, Mr. President, when once a great people make up their mind to obtain their freedom, there is no power on earth, not even Great Britain, which can stand in her way. Sir, I move.

## CONGRESS RESOLUTION ON FEDERALISM

### February 1938

*[The 51st session of the Indian National Congress was held at Haripura on February 19-21, 1938, under the presidentship of Subhas Chandra Bose. By one of the resolutions brought forward by its Working Committee, the Congress condemned the federal scheme of the 1935 Act and reiterated its faith in a constitution based on independence and framed by a Constituent Assembly. The text of the resolution is reproduced below.]*

THE CONGRESS HAS rejected the new constitution and declared that a constitution for India, which can be accepted by the people, must be based on independence and can only be framed by the people themselves by means of a Constituent Assembly, without interference by any foreign authority. Adhering to this policy of rejection, the Congress has, however, permitted the formation in provinces of Congress Ministries with a view to strengthen the nation in its struggle for independence. In regard to the proposed Federation, no such considerations apply even provisionally or for a period, and the imposition of this Federation will do grave injury to India and tighten the bonds which hold her in subjection to imperialist domination. This scheme of Federation, excludes from the sphere of responsibility vital functions of government.

The Congress is not opposed to the idea of Federation; but a real Federation must, even apart from the question of responsibility, consist of free units enjoying more or less the same measure of freedom and civil liberty, and representation by the democratic process of election. The Indian States participating in the Federation should approximate to the provinces in the establishment of representative institutions and responsible government, civil liberties and method of election to the Federal Houses. Otherwise the Federation as it is now contemplated, will, instead of building up Indian unity, encourage separatist tendencies and involve the States in internal and external conflicts.

The Congress therefore reiterates its condemnation of the proposed Federal Scheme and calls upon the Provincial and Local Congress Committees and the people generally, as well as the Provincial Governments and Ministries,

to prevent its inauguration. In the event of an attempt being made to impose it, despite the declared will of the people, such an attempt must be combated in every way, and the Provincial Governments and Ministries must refuse to co-operate with it. In case such a contingency arises, the All-India Congress Committee is authorised and directed to determine the line of action to be pursued in this regard.

RESOLUTION ON WAR-CRISIS ADOPTED BY  
PROVINCIAL ASSEMBLIES  
1939

*[The following resolution was moved by Premiers in the Provincial Assemblies of Madras (on October 26, 1939), Central Provinces (on November 4, 1939), Bihar (on October 16, 1939), U. P. (on October 27, 1939), Bombay (on October 25, 1939), Orissa (on November 3, 1939) and North-West Frontier Province (on November 6, 1939). The resolution, with minor amendments in some cases, was passed by large majorities in all the seven provinces. In Bengal this resolution was moved on December 13, 1939, as the Congress Party's amendment to an official motion of the Muslim League Government condemning the totalitarian governments of Europe for their role in the War and pledging full support to the Government in the prosecution of the War.]*

THIS ASSEMBLY REGRETS that the British Government have made India a participant in the war between Great Britain and Germany without the consent of the people of India and have further in complete disregard of Indian opinion passed laws and adopted measures curtailing the powers and activities of the Provincial Governments.

This Assembly recommends to the Government to convey to the Government of India and through them to the British Government that in consonance with the avowed aims of the present war, it is essential in order to secure the co-operation of Indian people that the principles of democracy with effective safeguards for the Muslim and other minorities be applied to India and her policy be guided by her people; and that India should be regarded as an independent nation entitled to frame her own constitution and further that suitable action should be taken in so far as it is possible in the immediate present to give effect to that principle in regard to present governance of India.

This Assembly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India, and in view of this failure of the British Government to meet India's demand this Assembly is of opinion that the Government cannot associate itself with British policy.

RAJAGOPALACHARI'S STATEMENT ON THE  
CONSTITUENT ASSEMBLY  
November 1939

*[C. Rajagopalachari, then a prominent leader of the Indian National Congress, issued a statement on November 15, 1939, wherein he stressed that only a duly elected Constituent Assembly could provide a lasting solution to the problem of continuing differences between the various political parties and communities in the country. He also dealt with connected issues like safeguards for minorities, the position of Indian States and protection of British financial interests in India.]*

IT IS TAKEN for granted that what the Congress wants is that the Congress and the League should be represented in the Constituent Assembly. This is a grave misconception. What the Congress has urged is not that either the Congress or the League or both or any other political organization should be represented, but that a duly constituted electorate should send members to the Constituent Assembly, and that these should be charged with the duty and entrusted with the power to frame a final draft so that no party organizations or individuals at large may thereafter raise any objections or propose modifications. If an electorate duly representing all the peoples of India approve of the draft Constitution, no self-constituted representatives can thereafter have the right to make counter-proposals and keep the issue alive. It may be taken for granted that in sending duly elected representatives to the Constituent Assembly the principle of separate electorates for such communities as desire it would be applied.

There is the problem of the method of reaching agreed conclusions. There is particularly the question of how to deal with dissenting Minorities, since it may be taken for granted that absolute unanimity cannot be reached. The Congress wishes to proceed on the basis that a majority decision of the representatives of any particular community should be taken as the considered view of that community. As for relative evaluation, Mahatmaji has already stated clearly that the Congress stands for the position that safeguards for the protection of the legitimate interests of Minorities should be such as would be satisfactory to the particular minority community. Otherwise we should be landed once again on British coercion.

As regards the States, it is a mistake to imagine that they are on a par with the minority communities. The States are today Governments, not peoples, for the Governments are unrelated to the people of those States. They should be dealt with on no better footing than as unrepresentative Provincial Governments. They cannot claim the status of Minorities and demand an agreement basis. They should be taken as represented by what is called the Paramount Power which is protecting them and which is the same as the British Government. The latter may bargain for them. Reason should be the deciding factor as regards the requirements of the States and not feelings and apprehensions, nor therefore counting of heads, as in the case of minority communities. If the people of the States take the place of the rulers, the position may be different.

The immediate approach to the deadlock is generally believed to be negotiations between the Congress and the League. The tactics of the British Government is to bring this about. Of course many want this in sincerity. And there are people always busy with this. But the lesson that has been forced on us by experience of two decades is that unless the British Government first accepts the procedure of pledging themselves to accept agreed decisions, and that they will no longer play the part of encouraging deliberately or otherwise now one and now the other, there can be no successful negotiations between the Congress and the League or any other organization. It appears fairly clear that it is only when it is realized by the contending communities that nothing can be got out of the British, but only out of one another, that the Majorities and Minorities will come to decisions and agreements on the plane of reason, common sense and love of motherland. This is what Mahatmaji has been insisting upon, without which condition precedent, he says, the 'seesaw' process is likely to go on. He has not backed the slogan of the Constituent Assembly for the love of a grandiloquent phrase. He has come to it, as indeed Pandit Jawaharlal came to it originally, only because of the bitter experience of the futility of attempting to solve things otherwise. They have found that the presence of a third power actively bargaining for each in turn, and suggesting or offering just a bit more, each time when reason threatened to prevail, is a fatal circumstance that postpones our destined goal of freedom, and there is no alternative to civil war but an assembly of duly elected representatives of the people to persuade all to follow the dictates of inherent goodwill and reason and decide on that basis. Experience and not extremism—wisdom, not sloganism—has made Gandhiji so insistent on a duly constituted Constituent Assembly in place of either Congress or League. The objection to a duly constituted representative assembly instead of the irregular arrangement that has been for convenience and decency called Round Table procedure comes mostly from groups and individuals whose opinion of their own importance differs materially from the prevailing public estimate. The Round Table is too irresponsible to be of any use when we feel we



have talked enough and must come to final decisions binding on all.

There is one subject on which the British for obvious reasons of propriety are not candid enough. They are unwilling to refer directly to the question of their own concrete interests in India, which in the present temper of nationalism they should be permitted to be reasonably anxious about. Instead of seeking a balance of power between warring communities to protect British interests, it is for the British to state what those interests are and what is the sort of protection they claim for them. It is no use confusing the issue with the theory of trust or a high-souled concern for civilization and orderly progress.

It should not be confounded with imperialist ambition or habit. It should be reduced to the minimum and stated in pounds sterling and provided for by agreement or arbitration by disinterested judges, say, three good Dominion Ministers. This could easily be made a preliminary to the constitution; I am told we can find precedent for this in the history of Irish affairs.

## GANDHIJI ON THE CONSTITUENT ASSEMBLY

### November 1939

*[In an article entitled 'The Only Way' which appeared in the 'Harijan' dated November 19, 1939, Gandhiji dwelt at length on the national demand for a Constituent Assembly and expressed the view that an assembly elected on universal adult suffrage was the only way out of the communal and other problems. The article is reproduced below.]*

PANDIT JAWAHARLAL NEHRU has compelled me to study, among other things, the implications of a Constituent Assembly. When he first introduced it in the Congress resolutions, I reconciled myself to it because of my belief in his superior knowledge of the technicalities of democracy. But I was not free from scepticism. Hard facts have, however, made me a convert and, for that reason perhaps, more enthusiastic than Jawaharlal himself. For I seem to see in it a remedy, which Jawaharlal may not, for our communal and other distempers, besides being a vehicle for mass political and other education.

The more criticism I see of the scheme, the more enamoured I become of it. It will be the surest index to the popular feeling. It will bring out the best and the worst in us. Illiteracy does not worry me. I would plump for unadulterated adult franchise for both men and women, *i.e.*, I would put them all on the register of voters. It is open to them not to exercise it if they do not wish to. I would not give separate vote to the Muslims; but, without giving separate vote, I would, though reluctantly, give reservation, if required, to every real minority according to its numerical strength.

Thus the Constituent Assembly provides the easiest method of arriving at a just solution of the communal problem. Today we are unable to say with mathematical precision who represents whom. Though the Congress is admittedly the oldest representative organisation on the widest scale, it is open to political and semi-political organisations to question, as they do question, its overwhelmingly representative character. The Muslim League is undoubtedly the largest organisation representing Muslims, but several Muslim bodies—by no means all insignificant—deny its claim to represent them. But the Constituent Assembly will represent all communities in their exact proportion. Except it there is no other way of doing full justice to

rival claims. Without it there can be no finality to communal and other claims.

Again the Constituent Assembly alone can produce a constitution indigent to the country and truly and fully representing the will of the people. Undoubtedly such a constitution will not be ideal, but it will be real, however imperfect it may be in the estimation of the theorists or legal luminaries. Self-government to be self-government has merely to reflect the will of the people who are to govern themselves. If they are not prepared for it, they will make a hash of it. I can conceive the possibility of a people fitting themselves for right government through a series of wrong experiments, but I cannot conceive a people governing themselves rightly through a government imposed from without, even as the fable jackdaw could not walk like a peacock with feathers borrowed from his elegant companion. A diseased person has a prospect of getting well by personal effort. He cannot borrow health from others.

The risks of the experiment are admitted. There is likely to be impersonation. Unscrupulous persons will mislead the illiterate masses into voting for wrong men and women. These risks have to be run, if we are to evolve something true and big. The Constituent Assembly, if it comes into being—as I hope it will—as a result of an honourable settlement between us and the British people, the combined wit of the best men of the two nations will produce an Assembly that will reflect fairly and truly the best mind of India. Therefore the success of the experiment at the present stage of India's history depends upon the intention of the British statesmen to part with power without engaging India in a deadly unorganised rebellion. For I know that India has become impatient. I am painfully conscious of the fact that India is not yet ready for non-violent civil disobedience on a mass scale. If, therefore, I cannot persuade the Congress to await the time when non-violent action is possible, I have no desire to live to see a dog-fight between the two communities. I know for certain that, if I cannot discover a method of non-violent action or inaction to the satisfaction of the Congress and there is no communal adjustment, nothing on earth can prevent an outbreak of violence resulting for the time being in anarchy and red ruin. I hold that it is the duty of all communities and Englishmen to prevent such a catastrophe.

The only way out is a Constituent Assembly. I have given my own opinion on it, but I am not tied down to the details. When I was nearly through with this article, I got the following wire from Syed Abdulla Brelvi : "Considerable misapprehensions among minorities (about) Constituent Assembly. Strongly urge clarification details, franchise, composition, methods arriving decision." I think I have said sufficient in the foregoing to answer Syed Saheb's question. By minorities he has Muslims principally in mind as represented by the Muslim League. If once the proposition that all communities desire a charter of independence framed by a Constituent

Assembly, and that they will not be satisfied with anything else, is accepted, the settling of details surely becomes easy. Any other method must lead to an imposed constitution mostly undemocratic. It would mean an indefinite prolongation of imperialistic rule sustained by the help of those who will not accept the fully democratic method of a Constituent Assembly.

The principal hindrance is undoubtedly the British Government. If they can summon a Round Table Conference as they propose to do after the War, they can surely summon a Constituent Assembly subject to safeguards to the satisfaction of minorities. The expression 'satisfaction of minorities' may be regarded as vague. It can be defined beforehand by agreement. The question thus resolves itself into whether the British Government desire to part with power and open a new chapter in their own history. I have already shown that the question of the Princes is a red herring across the path. European interests are absolutely safe so long as they are not in conflict with 'the interests of India'. I think this expression finds place in the Irwin-Gandhi Pact.

Look at the question from any standpoint you like, it will be found that the way to democratic *Swaraj* lies only through a properly constituted Assembly, call it by whatever name you like. All resources must, therefore, be exhausted to reach the Constituent Assembly before direct action is thought of. A stage may be reached when direct action may become the necessary prelude to the Constituent Assembly. The stage is not yet.

CONGRESS RESOLUTION ON CO-OPERATION WITH  
THE GOVERNMENT AND DEMAND FOR A  
CONSTITUENT ASSEMBLY  
November 1939

*[At its meeting held at Allahabad from November 19 to 23, 1939, the Congress Working Committee discussed the political situation in India created by the War and the resignation of Congress Ministries in the Provinces. A resolution adopted by the Committee stressed that the recognition of India's independence and of the right of her people to frame their constitution through a Constituent Assembly was essential to enable the Congress to consider further co-operation with the Government. The relevant extracts from the resolution are reproduced below.]*

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THE COMMITTEE WISH to declare again that the recognition of India's independence and of the right of her people to frame their constitution through a Constituent Assembly, is essential in order to remove the taint of imperialism from Britain's policy and to enable the Congress to consider further co-operation. They hold that a Constituent Assembly is the only democratic method of determining the constitution of a free country, and no one who believes in democracy and freedom can possibly take exception to it. The Working Committee believe too that the Constituent Assembly alone is the adequate instrument for solving the communal and other difficulties. This however does not mean that the Working Committee will relax their efforts for arriving at a solution of the communal problem. This Assembly can frame a constitution in which the rights of accepted minorities would be protected to their satisfaction, and in the event of some matters relating to minority rights not being mutually agreed to, they can be referred to arbitration. The Constituent Assembly should be elected on the basis of adult suffrage, existing separate electorates being retained for such minorities as desire them. The number of members in the Assembly should reflect their numerical strength.

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## A MEMORANDUM TO CRIPPS

### December 1939

*[In December 1939, Stafford Cripps, at that time a private Member of the House of Commons unattached to any political party, came to India in search of a solution to end the deadlock following the resignation of Congress Ministries in the Provinces. B. Shiva Rao gave him a memorandum which he had drawn up in November 1939 after discussions with Linlithgow, the Viceroy and Hawthorne Lewis, the Reforms Commissioner. The memorandum envisaged a responsible Cabinet at the Centre, functioning within the framework of the 1935 Act, as an interim arrangement for the duration of the War, and the summoning of a Constituent Assembly or a National Convention at the end of the War as a long-term solution of India's problem. The memorandum had been revised by B. N. Rau who was then in the Reforms Office. Cripps showed considerable interest in the scheme, discussed the details with Shiva Rao for two days and took the text with him to Wardha to show it to Gandhiji and Nehru. At Cripps' suggestion, before joining him at Wardha, Shiva Rao went to Bombay and saw Jinnah; Jinnah's reaction was favourable. Cripps discussed the scheme presumably with Gandhiji and Nehru. The text of the Memorandum is reproduced below.]*

AT THE END of the war there should be a general election for the provincial Assemblies in all the provinces with the main issue of framing a constitution on the basis of complete freedom subject to agreed reservations which may be incorporated in the draft proposals and made renewable at the end of five or ten years.

The provincial Assemblies are constituted in the following manner : Madras has 215 seats, Bombay 175, Bengal 250, the U.P. 228, the Punjab 175, Bihar 152, the C.P. 112, Assam 108, the N.W.F. Province 50, Orissa 60 and Sind 60, making a total of 1,585. One-tenth of this number—counting half and over as one and omitting less than half—would give a body of 160 delegates. Madras would have 22, Bombay 18, Bengal 25, the U.P. 23, the Punjab 18, Bihar 15, the C.P. and Assam 11 each, the N.W.F. Province 5, Orissa and Sind 6 each—making a total of 160. Interests and communities will be represented in the following numbers :

General: 66; Scheduled Castes: 15; Muslims: 48; Backward Tribes: 3; Sikhs: 4; Anglo-Indians: 1; Europeans: 3; Commerce, Industry, Mining and Planting: 6; Indian Christians: 2; Landholders: 4; Universities: 1; Labour: 4; Women: 3; Total: 160.

It is a matter for consideration whether this Assembly or Convention should have the right to co-opt a very small number in order to give representation to certain interests or to distinguished individuals who may not be elected in the usual way.

A body so constituted cannot be objected to from any point of view. So far as the British Parliament is concerned this body will owe its existence in the ultimate to the provincial electorates. The various communities and interests will be represented in it strictly in accordance with the existing proportions in the various provincial Assemblies. Muslims will have 30 per cent. of the seats, even if they do not secure any from amongst the seats allotted to interests like women, labour, commerce and industry.

Procedure and the manner of reaching decisions will have to be settled before the Assembly starts work. The following suggestions seem to be worthy of consideration: All general proposals should be carried by a majority vote. Safeguards for the rights of minorities must have, in addition, a majority of the votes of their own delegates. For instance, safeguards for the Muslims should be carried by 81 votes, of which at least 25 should be Muslims. The same consideration would apply to the scheduled castes.

If the above procedure is followed, it is conceivable that deadlocks may arise if the safeguards proposed by the Assembly as a whole do not receive the support of a majority of the delegates representing the minority concerned.

If a compromise is not immediately reached, the Assembly should adjourn its sitting for a period of about three months. During this period the proposals and the counter-proposals should be published and opinions of all sections gathered. When the Assembly re-assembles, it is possible that the interval has brought about a change in the situation. But assuming that the deadlock continues, the Chairman of the Assembly should have the right, to be exercised at his discretion, of dissolving the Assembly and asking the members of the provincial Assemblies to go through a fresh election. This procedure amounts to an appeal from the delegates to their immediate electors.

It is conceivable that this new Assembly will take a different view of the deadlock and overcome it. But if it should continue the question arises as to what should be done. If after these efforts, which would be spread roughly over a year, no solution has been reached, there should be a fresh *general* election; in other words, a referendum of the primary electors. The same process should be gone through after a fresh election of the National Assembly elected by the new members of the provincial Assemblies. If in spite of these efforts, a settlement has not been reached, then the matter should be referred to a tribunal which may consist of one or more persons

acceptable to both sides and the award of the tribunal should be binding.

This should satisfy the Congress demand that a body consisting of the representatives of the people of India and having behind it the sanction of the largest possible electorate and also the minorities should draft the constitution. The question of procedure is important, and there should be a preliminary agreement in regard to what procedure should be adopted by the National Assembly. If agreement is reached in regard to procedure, the constitution and size of the National Convention (or Assembly), the British Government should have no objection to convene it immediately after the war. It is agreed on all sides that the new constitution for India should contain satisfactory provisions for the protection of important minorities which will be regarded as adequate by the minorities themselves.

In regard to certain problems, such as defence, the Indian States and British financial and commercial interests, it is essential that agreed solutions between His Majesty's Government and the representatives of India should be incorporated in the draft constitution to be framed by the Constituent Assembly.

These problems could be discussed without any avoidable delay by the Governor-General by inviting the Premiers of British Indian provinces and a few representatives of the States to form a committee which will examine and report upon these problems.

Broadly speaking, this was the procedure adopted in Ireland in 1921. The Irish Parliament functioning as the Irish Constituent Assembly drew up a constitution on the basis of Dominion Status. There were, however, certain reservations which were binding on the Constituent Assembly. These reservations were first incorporated in a treaty signed by the representatives of Ireland on the one side and His Majesty's Government on the other, and terms of the treaty were embodied as transitory provisions in the Irish Constitution.

To sum up, the steps I visualise are these:

- (1) A conference of the eleven Premiers of the British Indian provinces to settle the details of the National Convention to be convened at the end of the war. This will not deal with the communal problem (except for the period of the war) but only settle the preliminaries as to how the National Convention would function.
- (2) A general agreement being reached on this to ensure that the National Convention will have the co-operation of all parties, the British Government should then make a declaration to the effect that subject to agreements between the representatives of India and the British Government in regard to Defence, Indian States and British commercial and financial interests, the National Convention would draw up a constitution for a free India.
- (3) Then the Viceroy will expand the Executive Council and convert it as far as is practicable within the limits of the present constitution



into a responsible cabinet.

- (4) The Premiers of the eleven provinces and the popular leaders of the Executive Council will proceed to examine, with representatives of the States and of the British Government, the reservations in regard to Defence, Indian States and British interests, which will be incorporated in a treaty to be signed by these representatives.
- (5) At the end of war, there will be a general election in the provinces. The main issues will be : (i) India's right to frame a constitution for herself through a National Convention subject to certain reservations incorporated in an Indo-British treaty. (ii) The parties to the treaty on the Indian side being the Premiers of the eleven provinces and the popular leaders in the Viceroy's Executive Council, it follows that the election will not be fought on party lines, that is Congress *versus* Muslim League, etc., but will be fought by all those who stand for this procedure with the reservations and those who are opposed to it.

## CONGRESS RESOLUTION ON THE COMMUNAL QUESTION AND THE CONSTITUENT ASSEMBLY December 1939

*[In answer to certain references to the 'communal question', made by the Secretary of State for India, the Congress Working Committee at its meeting held at Wardha from December 18 to 22, 1939, declared in a resolution that the Constituent Assembly as proposed by the Congress was the only way to attain a final settlement of all communal questions. The relevant extracts from the resolution are reproduced below.]*

THE WORKING COMMITTEE have studied with regret the recent pronouncements of the Secretary of State for India. His reference to the communal question merely clouds the issue and takes the public mind off the central fact that the British Government have failed to define their war aims especially with regard to India's freedom.

In the opinion of the Working Committee the communal question will never be satisfactorily solved so long as the different parties are to look to a third party, through whose favour they expect to gain special privileges, even though it may be at the expense of the nation. The rule of a foreign power over a people involves a division among the elements composing it. The Congress has never concealed from itself the necessity of uniting the various divisions. It is the one organization which in order to maintain its national character has consistently tried, not always without success, to bring about unity. But the Working Committee are convinced that lasting unity will only come when foreign rule is completely withdrawn. Events that have happened since the last meeting of the Committee have confirmed this opinion. The Working Committee are aware that the independence of India cannot be maintained, if there are warring elements within the country. The Committee are therefore entitled to read in the British Government's raising the communal question reluctance to part with power. The Constituent Assembly as proposed by the Congress is the only way to attain a final settlement of communal questions. The proposal contemplates fullest representation of all communities with separate electorates when necessary. It has already been made clear on behalf of the Congress that minority rights

will be protected to the satisfaction of the minorities concerned; (and) differences, if any, referred to an impartial tribunal.

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## LIBERAL FEDERATION RESOLUTION ON DOMINION STATUS AND A CONSTITUENT ASSEMBLY December 1939

*[The twenty-first session of the National Liberal Federation held at Allahabad on December 27-29, 1939, passed a resolution demanding Dominion Status and expressing the opinion that the future constitution of India should be framed by Indians themselves. The relevant text is reproduced below.]*

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THIS FEDERATION strongly urges (1) that the Government of India Act of 1935 should be so amended

(a) As to provide for the establishment of complete responsible government in the provinces and on a federal basis at the Centre so that India may automatically become a Dominion within the meaning of the Balfour Declaration of 1926 and of the Statute of Westminster on the conclusion of the war; and

(b) As to secure to the subjects of States, the right of election of State representatives.

(2) That in the meanwhile immediate steps should be taken to nationalize the army so as to enable India to shoulder the responsibility of Dominion status.

The Liberal Federation is strongly of opinion that the future constitution of India should be framed by Indians themselves but considers that the idea of the proposed constituent assembly is impracticable and is likely to retard our progress.

The Federation therefore suggests that a conference be convened in India by His Majesty's Government for framing the constitution and that it should be composed of : (1) The representatives of elected members of Provincial and Central Legislatures in British India elected on the basis of proportional representation. (2) The representatives of elected members of legislatures of Indian States. (3) The rulers of major States or their ministers invited by the Viceroy and the representatives of other Princes elected by the Chamber of Princes. (4) Representatives elected by landholders' associations, associa-

tions representing trade and commerce and associations representing agricultural and industrial labour. (5) A certain number of the members of the Conference to be nominated by the Viceroy to represent such interests and views as may otherwise go unrepresented.

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PART TWO  
OFFICIAL ACCEPTANCE OF THE  
DEMAND AND SETTING UP OF  
THE CONSTITUENT ASSEMBLY  
(1940-1947)





## THE 'AUGUST OFFER'

### 1940

*[Nationalist India's demand for a Constituent Assembly was, for the first time, authoritatively conceded by the British Government, though in an indirect way and with important reservations, through a statement made by the Viceroy, Linlithgow, on August 8, 1940. However, the proposals outlined in the statement—popularly known as the 'August Offer'—proved infructuous; the Viceroy observed in his address to the Central Legislature on November 20, 1940, that the major political parties in India were not prepared 'to take advantage of the opportunity offered to them'. The text of the Viceroy's statement of August 8, 1940, is reproduced below.]*

INDIA'S ANXIETY at this moment of critical importance in the world struggle against tyranny and aggression to contribute to the full to the common cause and to the triumph of our common ideals is manifest. She has already made a mighty contribution. She is anxious to make a greater contribution still. His Majesty's Government are deeply concerned that that unity of national purpose in India which would enable her to do so should be achieved at as early a moment as possible. They feel that some further statement of their intentions may help to promote that unity. In that hope they have authorised me to make the present statement.

Last October His Majesty's Government again made it clear that Dominion Status was their objective for India. They added that they were ready to authorise the expansion of the Governor-General's Council to include a certain number of representatives of political parties and they proposed the establishment of a consultative committee. In order to facilitate harmonious co-operation it was obvious that some measure of agreement in the provinces between major parties was a desirable prerequisite to their joint collaboration at the Centre. Such agreement was unfortunately not reached, and in the circumstances no progress was then possible.

During the earlier part of this year I continued my efforts to bring political parties together. In these last few weeks, I again entered into conversations with prominent political personages in British India and the Chancellor of the Chamber of Princes, the results of which have been reported to His Majesty's Government. His Majesty's Government have

also seen the resolution passed by the Congress Working Committee, the Muslim League and the Hindu Mahasabha.

It is clear that the earlier differences which had prevented the achievement of national unity remain unbridged. Deeply as His Majesty's Government regret this, they do not feel that they should any longer, because of these differences, postpone the expansion of the Governor-General's Council, and the establishment of a body which will more closely associate Indian public opinion with the conduct of the war by the Central Government. They have authorised me further to establish a War Advisory Council which would meet at regular intervals, and which would contain representatives of the Indian States and of other interests in the national life of India as a whole.

The conversations which have taken place and the resolutions of the bodies which I have just mentioned make it clear, however, that there is still in certain quarters doubt as to the intentions of His Majesty's Government for the constitutional future of India, and that there is doubt, too, as to whether the position of minorities, whether political or religious, is sufficiently safeguarded in relation to any constitutional change by the assurance already given. There are two main points which have emerged. On those two points His Majesty's Government now desire me to make their position clear.

The first is as to the position of minorities in relation to any future constitutional scheme. It has already been made clear that my declaration of last October does not exclude examination of any part either of the Act of 1935 or of the policy and plans on which it is based. His Majesty's Government's concern that full weight should be given to the views of the minorities in any revision has also been brought out. That remains the position of His Majesty's Government.

It goes without saying that they could not contemplate the transfer of their present responsibilities for the peace and welfare of India to any system of Government whose authority is directly denied by large and powerful elements in India's national life. Nor could they be parties to the coercion of such elements into submission to such a Government.

The second point of general interest is the machinery for building within the British Commonwealth of Nations a new constitutional scheme when the time comes. There has been very strong insistence that the framing of that scheme should be primarily the responsibility of Indians themselves, and should originate from Indian conceptions of the social, economic and political structure of Indian life. His Majesty's Government are in sympathy with that desire, and wish to see it given the fullest practical expression subject to the due fulfilment of the obligations which Great Britain's long connection with India has imposed upon her and for which His Majesty's Government cannot divest themselves of responsibility.

It is clear that a moment when the Commonwealth is engaged in a

struggle for existence is not one in which fundamental constitutional issues can be decisively resolved. But His Majesty's Government authorise me to declare that they will most readily assent to the setting up after the conclusion of the war with the least possible delay of a body representative of the principal elements in India's national life in order to devise the frame-work of the new constitution, and they will lend every aid in their power to hasten decisions on all relevant matters to the utmost degree.

Meanwhile they will welcome and promote, in any way possible, every sincere and practical step that may be taken by representative Indians themselves to reach a basis of friendly agreement, firstly, on the form which the post-war representative body should take, and the methods by which it should arrive at its conclusions, and secondly upon the principles and outlines of the constitution itself.

They trust, however, that for the period of the war (with the Central Government reconstituted and strengthened in the manner I have described and with the help of the War Advisory Council) all parties, communities and interests will combine and co-operate in making a notable Indian contribution to the victory of the world cause which is at stake. Moreover, they hope that in this process new bonds of union and understanding will emerge and thus pave the way towards the attainment by India of that free and equal partnership in the British Commonwealth which remains the proclaimed and accepted goal of the Imperial Crown and of the British Parliament.

## THE 'CRIPPS OFFER'

March-April 1942

*[On March 11, 1942, in a statement made in the House of Commons, the British Prime Minister, Winston Churchill, announced that the War Cabinet had 'agreed unitedly' on a scheme to promote a political settlement in India. The actual proposals were outlined in a 'Draft Declaration,' released on March 29, 1942, which Stafford Cripps, a member of the War Cabinet, had personally brought to India for consultation with Indian leaders. The Draft Declaration, which became famous as the 'Cripps Offer,' marked an advance over the 'August Offer' (see Document No. 35) inasmuch as it clearly conceded that the making of a new constitution for India was to rest solely and not merely 'primarily' in Indian hands. Immediately upon the cessation of hostilities, steps were to be taken to set up in India 'an elected body charged with the task of framing a new constitution for India'. However, the War Cabinet's proposals fell through as, for various reasons stated in its resolution of April 2, 1942, the Congress Working Committee was unable to accept them. The relevant extracts from the British Prime Minister's Statement of March 11, 1942, and the texts of the War Cabinet's Draft Declaration, and the Congress Working Committee's resolution of April 2, 1942, are reproduced below.]*

## (I) BRITISH PRIME MINISTER'S STATEMENT

March 11, 1942

THE CRISIS in the affairs of India arising out of the Japanese advance has made us wish to rally all the forces of Indian life, to guard their land from the menace of the invader. In August 1940 a full statement was made about the aims and policy we are pursuing in India. This amounted in short, to a promise that, as soon as possible after the war, India should attain Dominion status, in full freedom and equality with this country and the other Dominions, under a constitution to be framed by Indians, by agreement among themselves and acceptable to the main elements in Indian national life. This was, of course, subject to the fulfilment of our obligations for the protection of Minorities, including the Depressed Classes, and of our treaty obligations to the Indian States, and

to the settlement of certain lesser matters arising out of our long association with the fortunes of the Indian sub-continent.

However, Sir, in order to clothe these general declarations with precision and to convince all classes, races and creeds in India of our sincere resolve, the War Cabinet have agreed unitedly upon conclusions for present and future action which, if accepted by India as a whole, would avoid the alternative dangers either that the resistance of a powerful minority might impose an indefinite veto upon the wishes of the majority or that a majority decision might be taken which would be resisted to a point destructive of internal harmony and fatal to the setting up of a new constitution. We had thought of setting forth immediately the terms of this attempt by a constructive British contribution to aid India in the realization of full self-government; we are, however, apprehensive that to make a public announcement at such a moment as this might do more harm than good. We must first assure ourselves that our scheme would win a reasonable and practical measure of acceptance, and thus promote the concentration of all Indian thought and energies upon the defence of the native soil. We should ill serve the common cause if we made a declaration which would be rejected by essential elements in the Indian world, and which provoked fierce constitutional and communal disputes at a moment when the enemy is at the gates of India.

Accordingly, we propose to send a member of the War Cabinet to India to satisfy himself upon the spot by personal consultation that the conclusions upon which we are agreed, and which we believe represent a just and final solution, will achieve their purpose. My Rt. Hon'ble and learned friend, the Lord Privy Seal and the Leader of the House has volunteered to undertake this task.

## (II) WAR CABINET'S DRAFT DECLARATION

March 29, 1942

His Majesty's Government having considered the anxieties expressed in this country and in India as to the fulfilment of promises made in regard to the future of India have decided to lay down in precise and clear terms the steps which they propose shall be taken for the earliest possible realisation of self-government in India. The object is the creation of a new Indian Union which shall constitute a Dominion associated with the United Kingdom and other Dominions by a common allegiance to the Crown but equal to them in every respect, in no way subordinate in any aspect of its domestic or external affairs.

His Majesty's Government, therefore, make the following Declaration :

(a) Immediately upon cessation of hostilities steps shall be taken to

set up in India in manner described hereafter an elected body charged with the task of framing a new constitution for India.

(b) Provision shall be made, as set out below, for participation of Indian States in the constitution-making body.

(c) His Majesty's Government undertake to accept and implement forthwith the constitution so framed subject only to:—

(i) The right of any Province of British India that is not prepared to accept the new constitution to retain its present constitutional position, provision being made for its subsequent accession if it so decides.

With such non-acceding Provinces, should they so desire, His Majesty's Government will be prepared to agree upon a new constitution giving them the same full status as the Indian Union and arrived at by a procedure analogous to that here laid down.

(ii) The signing of a Treaty which shall be negotiated between His Majesty's Government and the constitution-making body. This treaty will cover all necessary matters arising out of the complete transfer of responsibility from British to Indian hands; it will make provision, in accordance with undertakings given by His Majesty's Government, for the protection of racial and religious minorities; but will not impose any restriction on the power of the Indian Union to decide in future its relationship to other Member States of the British Commonwealth.

Whether or not an Indian State elects to adhere to the constitution it will be necessary to negotiate a revision of its Treaty arrangements so far as this may be required in the new situation.

(d) The constitution-making body shall be composed as follows unless the leaders of Indian opinion in the principal communities agree upon some other form before the end of hostilities:—

Immediately upon the result being known of Provincial Elections which will be necessary at the end of hostilities, the entire membership of the Lower Houses of Provincial Legislatures shall as a single electoral college proceed to the election of the constitution-making body by the system of proportional representation. This new body shall be in number about 1/10th of the number of the electoral college.

Indian States shall be invited to appoint representatives in the same proportion to their total population as in the case of representatives of British India as a whole and with the same powers as British Indian members.

(e) During the critical period which now faces India and until the new constitution can be framed His Majesty's Government must inevitably bear the responsibility for and retain the control and direction of the defence of India as part of their world war effort, but

the task of organising to the full the military, moral and material resources of India must be the responsibility of the Government of India with the co-operation of the peoples of India. His Majesty's Government desire and invite the immediate and effective participation of the leaders of the principal sections of the Indian people in the counsels of their country, of the Commonwealth and of the United Nations. Thus they will be enabled to give their active and constructive help in the discharge of a task which is vital and essential for the future freedom of India.

### (III) CONGRESS RESOLUTION ON THE CRIPPS OFFER

April 1942

The Working Committee have given full and earnest consideration to the proposals made by the British War Cabinet with regard to India and the elucidation of them by Sir Stafford Cripps.

These proposals, which have been made at the very last hour because of the compulsion of events, have to be considered not only in relation to India's demand for independence but more especially, in the present grave war crisis, with a view to meeting effectively the perils and dangers that confront India and envelop the world.

Congress has repeatedly stated, ever since the commencement of the war in September 1939, that the people of India would line themselves with the progressive forces of the world and assume full responsibility to face the new problems and shoulder the new burdens that had arisen, and it asked for the necessary conditions to enable them to do so to be created. The essential condition was the freedom of India, for only the realization of present freedom could light the flame which would illuminate millions of hearts and move them to action.

At the last meeting of the All-India Congress Committee, after the commencement of the war in the Pacific, it was stated that: 'Only a free and independent India can be in a position to undertake the defence of the country on a national basis and be able to help in the furtherance of the larger causes that are emerging from the forum of war.'

The British War Cabinet's new proposals relate principally to the future, upon the cessation of hostilities. The Committee, while recognizing that self-determination for the people of India is accepted in principle in that uncertain future, regret that this is fettered and circumscribed and that certain provisions have been introduced which gravely imperil the development of a free and united national government and the establishment of a democratic state. Even the constitution-making body is so constituted that the people's right of self-determination is vitiated by the introduction of non-representative elements.

The people of India have as a whole, clearly demanded full

independence, and Congress has repeatedly declared that no other status except that of independence for the whole of India could be agreed to or could meet the essential requirements of the present situation.

The committee recognize that future independence may be implicit in the proposals, but the accompanying provisions and restrictions are such that real freedom may well become an illusion.

The complete ignoring of ninety millions of people in the Indian States, and their treatment as commodities at the disposal of their Rulers, is a negation both of democracy and self-determination. While the representation of an Indian State in the constitution-making body is fixed on a population basis, the people of the State have no voice in choosing those representatives, nor are they to be consulted at any stage while decisions vitally affecting them are being taken. Such States may in many ways become barriers to the growth of Indian freedom, enclaves where foreign authority still prevails, and where the possibility of maintaining foreign armed forces has been stated to be a likely contingency and a perpetual menace to the freedom of the people of the States as well as of the rest of India.

The acceptance beforehand of the novel principle of non-accession for a Province is also a severe blow to the conception of Indian unity and an apple of discord likely to generate growing trouble in the Provinces, and which may well lead to further difficulties in the way of the Indian States merging themselves into an Indian Union. Congress has been wedded to Indian freedom and unity and any break of that unity especially in the modern world when peoples' minds inevitably think in terms of ever larger federations would be injurious to all concerned and exceedingly painful to contemplate. Nevertheless, the committee cannot think in terms of compelling the people of any territorial unit to remain in an Indian Union against their declared and established will. While recognizing this principle, the committee feel that every effort should be made to create conditions which would help the different units in developing a common and co-operative national life. Acceptance of this principle inevitably involves that no changes should be made which would result in fresh problems being created and compulsion being exercised on other substantial groups within that area. Each territorial unit should have the fullest possible autonomy within the Union consistently with a strong national state.

The proposal now made on the part of the British War Cabinet encourages and will lead to attempts at separation at the very inception of the Union and thus create great friction just when the utmost co-operation and goodwill are most needed. This proposal has been presumably made to meet the communal demand, but it will have other consequences also and lead politically reactionary and obscurantist groups among the different communities to create trouble and divert public attention from the vital issues before the country.

Any proposal concerning the future of India must demand attention and



scrutiny, but in today's grave crisis it is the present that counts and even the proposals for the future are important in so far as they affect the present. The committee necessarily attach the greatest importance to this aspect of the question and on this ultimately depends what advice they should give to those who look to them for guidance. For this the present British War Cabinet's proposals are vague and altogether incomplete, and there would appear to be no vital changes in the present structure contemplated. It has been made clear that the defence of India will in any event remain under British control. At any time Defence is a vital subject: during war-time it is all important and covers almost every sphere of life and administration. To take away Defence from the sphere of responsibility at this stage is to reduce that responsibility to a farce and nullity and to make it perfectly clear that India is not going to be free in any way and her Government is not going to function as a free and independent Government during the pendency of the war.

The committee would repeat that the essential fundamental prerequisite for the assumption of responsibility by the Indian people in the present is their realization as a fact that they are free and are in charge of maintaining and defending their freedom. What is most wanted is the enthusiastic response of the people, which cannot be evoked without the fullest trust in them and the devolution of responsibility on them in the matter of Defence. It is only thus that even in this grave eleventh hour it may be possible to galvanize the people of India to rise to the height of the occasion. It is manifest that the present Government of India, as well as its Provincial agencies, are lacking in competence and are incapable of shouldering the burden of India's defence. It is only the people of India, through their popular representatives, who may shoulder this burden worthily. But that can only be done by present freedom and full responsibility being cast upon them. The Committee are, therefore, unable to accept the proposals put forward on behalf of the British War Cabinet.

THE 'QUIT INDIA' RESOLUTION OF  
THE CONGRESS  
August 1942

*[This historic resolution, adopted by the A.I.C.C. at Bombay on August 8, 1942, besides demanding the immediate ending of British rule in India and sanctioning the starting of a mass struggle on non-violent lines for the vindication of India's right to freedom, envisaged that the provisional Government of free India would evolve a scheme of a Constituent Assembly which would prepare a constitution acceptable to all sections of the people. Immediately after the adoption of the resolution Gandhiji and all the important leaders of the Congress were arrested. The arrest of the leaders was followed by the 'Quit India' movement and ruthless repression.]*

THE ALL-INDIA CONGRESS COMMITTEE has given the most careful consideration to the reference made to it by the Working Committee in their resolution dated 14 July 1942 and to subsequent events, including the development of the War situation, the utterances of responsible spokesmen of the British Government, and the comments and criticisms made in India and abroad. The Committee approves of and endorses that resolution and is of opinion that events subsequent to it have given it further justification and have made it clear that the immediate ending of British rule in India is an urgent necessity both for the sake of India and for the success of the cause of the United Nations. The continuation of that rule is degrading and enfeebling India and making her progressively less capable of defending herself and of contributing to the cause of world freedom.

The Committee has viewed with dismay the deterioration of the situation on the Russian and Chinese fronts and conveys to the Russian and Chinese people its high appreciation of their heroism in defence of their freedom. This increasing peril makes it incumbent on all those who strive for freedom and who sympathize with the victims of aggression to examine the foundations of the policy so far pursued by the Allied Nations, which have led to repeated and disastrous failure. It is not by adhering to such aims and policies and methods that failure can be converted into success, for past experience has shown that failure is inherent in them. These policies

have been based not on freedom so much as on the domination of subject and colonial countries, and the continuation of the imperialist tradition and method. The possession of empire, instead of adding to the strength of the ruling power, has become a burden and a curse. India, the classic land of modern imperialism, has become the crux of the question, for by the freedom of India will Britain and the United Nations be judged, and the peoples of Asia and Africa be filled with hope and enthusiasm.

The ending of British rule in this country is thus a vital and immediate issue on which depend the future of the war and the success of freedom and democracy. A free India will assure this success by throwing all her great resources in the struggle for freedom and against the aggression of Nazism, Fascism and Imperialism. This will not only affect materially the fortunes of the war, but will bring all subject and oppressed humanity on the side of the United Nations, and give these nations, whose ally India would be, the moral and spiritual leadership of the world. India in bondage will continue to be the symbol of British imperialism and the taint of that imperialism will affect the fortunes of all the United Nations.

The peril of today, therefore, necessitates the independence of India and the ending of British domination. No future promises or guarantees can affect the present situation or meet that peril. They cannot produce the needed psychological effect on the mind of the masses. Only the glow of freedom now can release that energy and enthusiasm of millions of people which will immediately transform the nature of the War.

The All-India Congress Committee, therefore, repeats with all emphasis the demand for the withdrawal of the British Power from India. On the declaration of India's independence, a provisional Government will be formed and free India will become an ally of the United Nations, sharing with them in the trials and tribulations of the joint enterprise of the struggle for freedom. The provisional Government can only be formed by the co-operation of the principal parties and groups in the country. It will thus be a composite Government, representative of all important sections of the people of India. Its primary functions must be to defend India and resist aggression with all the armed as well as the non-violent forces at its command, together with its Allied Powers, and to promote the well-being and progress of the workers in the fields and factories and elsewhere, to whom essentially all power and authority must belong. The provisional Government will evolve a scheme for a Constituent Assembly which will prepare a constitution for the Government of India acceptable to all the sections of the people. This constitution, according to the Congress view, should be a federal one, with the largest measure of autonomy for the federating units, and with the residuary powers vesting in these units. The future relations between India and the Allied Nations will be adjusted by representatives of all these free countries conferring together for their mutual advantage and for their co-operation in the common task of resisting

aggression. Freedom will enable India to resist aggression effectively with the people's united will and strength behind it.

The freedom of India must be the symbol of and prelude to the freedom of all other Asiatic nations under foreign domination. Burma, Malaya, Indo-China, the Dutch Indies, Iran and Iraq must also attain their complete freedom. It must be clearly understood that such of these countries as are under Japanese control now must not subsequently be placed under the rule or control of any colonial power.

While the All-India Congress Committee must primarily be concerned with the independence and defence of India in this hour of danger, the committee is of opinion that the future peace, security and ordered progress of the world demand a world federation of free nations, and on no other basis can the problems of the modern world be solved. Such a world federation would ensure the freedom of its constituent nations, the prevention of aggression and exploitation by one nation over another, the protection of national minorities, the advancement of all backward areas and peoples, and the pooling of the world's resources for the common good of all. On the establishment of such a world federation, disarmament would be practicable in all countries; national armies, navies and air forces would no longer be necessary, and a World Federal Defence Force would keep the world peace and prevent aggression.

An independent India would gladly join such a world federation and co-operate on an equal basis with other nations in the solution of international problems.

Such a federation should be open to all nations who agree with its fundamental principles. In view of the war, however, the federation must inevitably, to begin with, be confined to the United Nations. Such a step taken now will have a most powerful effect on the war, on the peoples of the Axis countries, and on the peace to come.

The Committee regretfully realizes, however, that despite the tragic and overwhelming lessons of the war and the perils that overhang the world, the Governments of few countries are yet prepared to take this inevitable step towards world federation. The reaction of the British Government and the misguided criticisms of the foreign Press also make it clear that even the obvious demand for India's independence is resisted, though this has been made essentially to meet the present peril and to enable India to defend herself and help China and Russia in their hour of need. The committee is anxious not to embarrass in any way the defence of China or Russia, whose freedom is precious and must be preserved, or to jeopardize the defence capacity of the United Nations. But the peril grows both to India and these nations, and inaction and submission to a foreign administration at this stage is not only degrading India and reducing her capacity to defend herself and resist aggression but is no answer to the growing peril and is no service to the peoples of the United Nations. The

earnest appeal of the Working Committee to Great Britain and the United Nations has so far met with no response, and the criticisms made in many foreign quarters have shown an ignorance of India's and the world's need, and sometimes even hostility to India's freedom, which is significant of a mentality of domination and racial superiority which cannot be tolerated by a proud people conscious of their strength and of the justice of their cause.

The All-India Congress Committee would yet again, at this last moment, in the interest of world freedom, renew this appeal to Britain and the United Nations. But the Committee feels that it is no longer justified in holding the nation back from endeavouring to assert its will against an imperialist and authoritarian Government which dominates over it and prevents it from functioning in its own interest and in the interest of humanity. The Committee resolves, therefore, to sanction for the vindication of India's inalienable right to freedom and independence the starting of a mass struggle on non-violent lines on the widest possible scale, so that the country might utilize all the non-violent strength it has gathered during the last twenty-two years of peaceful struggle. Such a struggle must inevitably be under the leadership of Gandhiji and the committee requests him to take the lead and guide the nation in the steps to be taken.

The committee appeals to the people of India to face the dangers and hardships that will fall to their lot with courage and endurance, and to hold together under the leadership of Gandhiji, and carry out his instructions as disciplined soldiers of Indian freedom. They must remember that non-violence is the basis of this movement. A time may come when it may not be possible to issue instructions or for instructions to reach our people, and when no Congress Committees can function. When this happens, every man and woman who is participating in this movement must function for himself or herself within the four corners of the general instructions issued. Every Indian who desires freedom and strives for it must be his own guide, urging him on along the hard road where there is no resting place and which leads ultimately to the independence and deliverance of India.

Lastly, whilst the All-India Congress Committee has stated its own view of the future governance under free India, the All-India Congress Committee wishes to make it quite clear to all concerned that by embarking on mass struggle it has no intention of gaining power for the Congress. The power, when it comes will belong to the whole people of India.

## THE 'WAVELL PLAN'

June 1945

*[Soon after the War in Europe came to an end, on June 14, 1945, the British Government issued a White Paper on India. The White Paper repeated the Cripps Offer in its entirety. As an interim arrangement, that is, pending the framing of a new constitution by Indians themselves, it was proposed to reconstitute the Viceroy's Executive Council so as to make it more representative of organised political opinion. The new proposals, which, as Amery, the Secretary of State for India, observed in the House of Commons, 'owed everything to the initiative' of Wavell, the then Viceroy of India, came to be popularly known as the 'Wavell Plan'. On the same day, while explaining the proposals in a broadcast from New Delhi, the Viceroy announced that important leaders of the Indian National Congress, the Muslim League and some other political parties were being invited to a conference at Simla to discuss the question of forming a new Executive Council. He also disclosed that orders had been given for the immediate release of the members of the Congress Working Committee who were still in detention. The texts of the White Paper and the Viceroy's broadcast are reproduced below.]*

## (I) WHITE PAPER ON INDIA

June 14, 1945

DURING THE RECENT visit of Field Marshal Viscount Wavell to this country His Majesty's Government reviewed with him a number of problems and discussed particularly the present political situation in India.

2. Members will be aware that, since the offer by His Majesty's Government to India in March 1942, there has been no further progress towards the solution of the Indian constitutional problem.

3. As was then stated, the working out of India's new constitutional system is a task which can only be carried through by the Indian peoples themselves.

4. While His Majesty's Government are at all times most anxious to do their utmost to assist the Indians in the working out of a new constitutional settlement it would be a contradiction in terms to speak of the

imposition by this country of self-governing institutions upon an unwilling India. Such a thing is not possible nor could we accept the responsibility for enforcing such institutions at the very time when we were by its purpose, withdrawing from all control of British Indian affairs.

5. The main constitutional position remains therefore as it was. The offer of March 1942 stands in its entirety without change or qualification. His Majesty's Government still hope that political leaders in India may be able to come to an agreement as to the procedure whereby India's permanent future form of Government can be determined.

6. His Majesty's Government are, however, most anxious to make any contribution that is practicable to the breaking of the political deadlock in India. While that deadlock lasts, not only political but social and economic progress is being hampered.

7. The Indian Administration, over-burdened with the great tasks laid upon it by the war against Japan and by the planning for the post-war period, is further strained by the political tension that exists.

8. All that is so urgently required to be done for agricultural and industrial development and for the peasants and workers of India cannot be carried through unless the wholehearted co-operation of every community and section of the Indian people is forthcoming.

9. His Majesty's Government have therefore, considered whether there is something which they could suggest in this interim period, under the existing constitution, pending the formulation by Indians of their future constitutional arrangements, which would enable the main communities and parties to co-operate more closely together and with the British to the benefit of the people as a whole.

10. It is not the intention of His Majesty's Government to introduce any change contrary to the wishes of the major Indian communities. But they are willing to make possible some step forward during the interim period, if the leaders of the principal Indian parties are prepared to agree to their suggestions and to co-operate in the successful conclusion of the war against Japan as well as in the reconstruction in India which must follow the final victory.

11. To this end, they would be prepared to see an important change in the composition of the Viceroy's Executive. This is possible without making any change in the existing statute law except for one amendment to the Ninth Schedule to the Act of 1935. That Schedule contains a provision that not less than three members of the Executive must have had at least ten years' service under the Crown in India. If the proposals I am about to lay before the House meet with acceptance in India, that clause would have to be amended to dispense with that requirement.

12. It is proposed that the Executive Council should be reconstituted and that the Viceroy should in future make his selection for nomination to the Crown for appointment to his Executive from amongst leaders of

Indian political life at the Centre and in the Provinces in proportions which would give a balanced representation of the main communities including equal proportions of Muslims and Caste-Hindus.

13. In order to pursue this object, the Viceroy will call into conference a number of leading Indian politicians who are the heads of the most important parties or who have had recent experience as Prime Ministers of Provinces, together with a few others of special experience and authority. The Viceroy intends to put before this conference the proposal that the Executive Council should be reconstituted as above stated and to invite from the members of the conference a list of names. Out of these, he would hope to be able to choose the future members whom he would recommend for appointment by His Majesty to the Viceroy's Council, although the responsibility for the recommendations must, of course, continue to rest with him, and his freedom of choice, therefore, remains, unrestricted.

14. The members of his Council, who are chosen as a result of this arrangement would, of course, accept the position on the basis that they would wholeheartedly co-operate in supporting and carrying through the war against Japan to its victorious conclusion.

15. The members of the Executive would be Indians with the exception of the Viceroy and the Commander-in-Chief, who would retain his position as War Member. This is essential so long as the defence of India remains a British responsibility.

16. Nothing contained in any of these proposals will affect the relations of the Crown with the Indian States through the Viceroy as Crown Representative.

17. The Viceroy has been authorised by His Majesty's Government to place this proposal before the Indian leaders. His Majesty's Government trust that the leaders of the Indian communities will respond. For the success of such a plan must depend upon its acceptance in India and the degree to which responsible Indian politicians are prepared to co-operate with the object of making it a workable interim arrangement. In the absence of such general acceptance existing arrangements must necessarily continue.

18. If such co-operation can be achieved at the Centre, it will no doubt be reflected in the Provinces and so enable Responsible Governments to be set up once again in those Provinces where, owing to the withdrawal of the majority party from participation, it became necessary to put into force the powers of the Governors under Section 93 of the Act of 1935. It is to be hoped that in all the Provinces these Governments would be based on the participation of the main parties, thus smoothing up communal differences and allowing Ministers to concentrate upon their very heavy administrative tasks.

19. There is one further change which, if these proposals are accepted, His Majesty's Government suggest should follow.



20. That is, that External Affairs (other than those tribal and frontier matters which fall to be dealt with as part of the defence of India) should be placed in the charge of an Indian member of the Viceroy's Executive so far as British India is concerned, and that fully accredited representatives shall be appointed for the representation of India abroad.

21. By their acceptance of and co-operation in this scheme, the Indian leaders will not only be able to make their immediate contribution to the direction of Indian affairs, but it is also to be hoped that their experience of co-operation in Government will expedite agreement between them as to the method of working out the new constitutional arrangements.

22. His Majesty's Government consider, after the most careful study of the question, that the plan now suggested gives the utmost progress practicable within the present constitution. None of the changes suggested will in any way prejudice or prejudge the essential form of the future permanent constitution or constitutions for India.

23. His Majesty's Government feel certain that given goodwill and a genuine desire to co-operate on all sides, both British and Indian, these proposals can mark a genuine step forward in the collaboration of the British and Indian peoples towards Indian Self-Government and can assert the rightful position, and strengthen the influence, of India in the counsels of the nations.

## (II) VICEROY'S BROADCAST

June 14, 1945

I have been authorised by His Majesty's Government to place before Indian political leaders proposals designed to ease the present political situation and to advance India towards her goal of full self-government. These proposals are at the present moment being explained to Parliament by the Secretary of State for India. My intention in this broadcast is to explain to you the proposals, the ideas underlying them, and the method by which I hope to put them into effect.

This is not an attempt to obtain or impose a constitutional settlement. His Majesty's Government had hoped that the leaders of the Indian parties would agree amongst themselves on a settlement of the communal issue, which is the main stumbling-block; but this hope has not been fulfilled.

In the meantime, India has great opportunities to be taken and great problems to be solved, which require a common effort by the leading men of all parties. I therefore propose, with the full support of His Majesty's Government, to invite Indian leaders both of Central and Provincial politics to take counsel with me with a view to the formation of a new Executive Council more representative of organised political opinion. The proposed new Council would represent the main communities and would include equal proportions of Caste Hindus and Moslems. It would work, if

formed, under the existing constitution. But it would be an entirely Indian Council, except for the Viceroy and the Commander-in-Chief who would retain his position as War Member. It is also proposed that the portfolio of External Affairs, which has hitherto been held by the Viceroy, should be placed in charge of an Indian Member of Council, so far as the interests of British India are concerned.

A further step proposed by His Majesty's Government is the appointment of a British High Commissioner in India, as in the Dominions, to represent Great Britain's commercial and other such interests in India.

Such a new Executive Council will, you will realise, represent a definite advance on the road to self-government. It will be almost entirely Indian, and the Finance and Home Members will for the first time be Indians, while an Indian will also be charged with the management of India's Foreign Affairs. Moreover Members will now be selected by the Governor-General after consultation with political leaders; though their appointment will of course be subject to the approval of His Majesty the King-Emperor.

The Council will work within the framework of the present constitution; and there can be no question of the Governor-General agreeing not to exercise his constitutional power of control; but it will of course not be exercised unreasonably.

I should make it clear that the formation of this interim Government will in no way prejudice the final constitutional settlement.

The main tasks for this new Executive Council would be :

First, to prosecute the war against Japan with utmost energy till Japan is utterly defeated.

Secondly, to carry on the Government of British India, with all the manifold tasks of post-war development in front of it, until a new permanent constitution can be agreed upon and come into force.

Thirdly, to consider, when the Members of the Government think it possible, the means by which such agreement can be achieved. The third task is most important. I want to make it quite clear that neither I nor His Majesty's Government have lost sight of the need for a long-term solution, and that the present proposals are intended to make a long-term solution easier.

I have considered the best means of forming such a Council; and have decided to invite the following to Viceregal Lodge to advise me :

Those now holding office as Premier in a Provincial Government; or, for Provinces now under Section 93 Government, those who last held the office of Premier.

The Leader of the Congress Party and the Deputy Leader of the Muslim League in the Central Assembly; the Leader of the Congress Party and the Muslim League in the Council of State; also the leaders of the Nationalist Party and the European Group in the Assembly.

Mr. Gandhi and Mr. Jinnah as the recognised leaders of the two main political parties.

Rao Bahadur N. Siva Raj to represent the Scheduled Classes.

Master Tara Singh to represent the Sikhs.

Invitations to these gentlemen are being handed to them today and it is proposed to assemble the Conference on 25th June at Simla where we shall be cooler than at Delhi.

I trust that all those invited will attend the Conference and give me their help. On me and on them will lie a heavy responsibility in this fresh attempt to make progress towards a final settlement of India's future.

If the meeting is successful, I hope that we shall be able to agree on the formation of the new Executive Council at the Centre. I also hope that it will be possible for Ministries to re-assume office and again undertake the tasks of government in the Provinces now administered under Section 93 of the Constitution Act and that these Ministries will be coalitions.

If the meeting should unfortunately fail we must carry on as at present until the parties are ready to come together. The existing Executive Council, which has done such valuable work for India, will continue it if other arrangements cannot be agreed.

But I have every hope that the meeting will succeed, if the party leaders will approach the problems with the sincere intention of working with me and with each other. I can assure them that there is behind this proposal a most genuine desire on the part of all responsible leaders in the United Kingdom and of the British people as a whole to help India towards her goal. I believe that this is more than a step towards that goal, it is a considerable stride forward, and a stride on the right path.

I should make it clear that these proposals affect British India only and do not make any alteration in the relations of the Princes with the Crown Representatives.

With the approval of His Majesty's Government, and after consultation with my Council, orders have been given for the immediate release of the members of the Working Committee of Congress who are still in detention. I propose to leave the final decision about the others still under detention as a result of the 1942 disturbances to the new Central Government, if formed, and to the Provincial Governments.

The appropriate time for fresh elections for the Central and Provincial legislatures will be discussed at the Conference.

Finally, I would ask you all to help in creating the atmosphere of goodwill and mutual confidence that is essential if we are to make progress. The destiny of this great country and of the many millions who live in it depend on the wisdom and good understanding of the leaders, both of action and of thought, British and Indian, at this critical moment of India's history.

India's military reputation never stood higher in the world that it does

at present : thanks to the exploits of her sons drawn from all parts of the country. Her representatives at International Conferences have won high regard for their statesmanlike attitude. Sympathy for India's aspirations and progress towards prosperity was never greater or more widespread. We have thus great assets if we can use them wisely. But it will not be easy, it will not be quick; there is very much to do, there are many pitfalls and dangers. There is on all sides something to forgive and forget.

I believe in the future of India and as far as in me lies will further her greatness. I ask you all for your co-operation and goodwill.

## VICEROY'S STATEMENT ON THE FAILURE OF THE SIMLA CONFERENCE July 1945

*[The Simla Conference opened on June 25, 1945, as proposed in Wavell's broadcast of June 14 (see Document No. 38), but was unable to agree upon the strength and composition of the Executive Council. A solution suggested by the Viceroy was rejected by Jinnah, who was the main spokesman of the Muslim League. In a statement made at the Conference on July 14, the Viceroy announced the failure of the Simla Conference. The text of the statement is reproduced below.]*

I MUST GIVE the Conference an account of what has happened since we adjourned on 29th June. As you know, my original intention was that the Conference should agree upon the strength and composition of the Executive Council, and that thereafter parties should send me lists of names. To these lists I would, if necessary, have added names of my own, and attempted to form on paper an Executive Council which might be acceptable to His Majesty's Government, myself, and the Conference. I intended to discuss my selections with the leaders, and finally to put them to the Conference.

2. Unfortunately, the Conference was unable to agree about the strength and composition of the Executive Council, and on the 29th June I undertook, with the approval of the Conference, to endeavour to produce a solution not based on any formula agreed in advance. I asked the parties to let me have lists of names, and said I would do what I could to produce a solution acceptable to the leaders and to the Conference.

3. I received lists from all parties represented here except from the European Group, who decided not to send a list, and the Muslim League. I was, however, determined that the Conference should not fail until I had made every possible effort to bring it to a successful ending. I therefore made my provisional selections including certain Muslim League names, and I have every reason to believe that if these selections had been acceptable here they would have been acceptable to His Majesty's Government.

4. My selections would, I think, have given a balanced and efficient Executive Council whose composition would have been reasonably fair to all the

parties. I did not find it possible, however, to accept the claims of any party in full. When I explained my solution to Mr. Jinnah he told me that it was not acceptable to the Muslim League and he was so decided that I felt it would be useless to continue the discussions. In the circumstances I did not show my selections as a whole to Mr. Jinnah, and there was no object in showing them to the other leaders.

5. The Conference has therefore failed. Nobody can regret this more than I do myself. I wish to make it clear that the responsibility for the failure is mine. The main idea underlying the Conference was mine. If it had succeeded, its success would have been attributed to me, and I cannot place the blame for its failure upon any of the parties. I ask the party leaders to accept this view, and to do all they can to ensure that there are no recriminations. It is of the utmost importance that this effort to secure agreement between the parties and communities should not result in a worsening of communal feeling. I ask you all to exercise the greatest possible restraint.

6. I have now to consider the next steps. I must remind you that, whatever happens, the first two of the three tasks mentioned in my broadcast—the prosecution of the war against Japan, and the carrying on of the administration and preparation for post-war development—must be performed by the Government of India for the time being in office. It will be my duty to see that these tasks are performed with the greatest energy that I can impose, and I cannot permit any hindrance to them.

7. I propose to take a little time to consider in what way I can best help India after the failure of the Conference. You can all help best by refraining from recriminations. The war against Japan must be carried on, and law and order must be maintained; and until I see my way more clearly than I do now, it may be difficult, perhaps impossible, to suggest any new move. No Government can carry on under the daily prospect of change or dissolution. I have to secure the stability and day to day efficiency of my Government, and it would be impossible to enter upon continuous or even frequent political discussions of this kind. Whatever decisions His Majesty's Government may take in the near future must therefore, in all probability, hold good for some little time.

8. I thank you all for the help you have given me, and for the restraint, patience and understanding which you have shown. Do not any of you be discouraged by this set-back. We shall overcome our difficulties in the end. The future greatness of India is not in doubt.

## VICEROY'S BROADCAST

September 1945

*[In July 1945, a Labour Government came to power in England. The new Government's Indian policy was announced in a broadcast by Viceroy Wavell on September 19. The Viceroy affirmed His Majesty's Government's intention to convene a constitution-making body for India 'as soon as possible'. The text of the broadcast is reproduced below.]*

AFTER MY RECENT discussions with His Majesty's Government in London they authorised me to make the following announcement :

As stated in the gracious Speech from the Throne at the Opening of Parliament, His Majesty's Government are determined to do their utmost to promote in conjunction with the leaders of Indian opinion the early realisation of full self-government in India. During my visit to London they have discussed with me the steps to be taken.

An announcement has already been made that elections to the Central and Provincial Legislatures, so long postponed owing to the war, are to be held during the coming cold weather. Thereafter His Majesty's Government earnestly hope that ministerial responsibility will be accepted by political leaders in all Provinces.

It is the intention of His Majesty's Government to convene as soon as possible a constitution-making body, and as a preliminary step they have authorised me to undertake, immediately after the elections, discussions with representatives of the Legislative Assemblies in the Provinces, to ascertain whether the proposals contained in the 1942 declaration are acceptable or whether some alternative or modified scheme is preferable. Discussions will also be undertaken with the representatives of the Indian States with a view to ascertaining in what way they can best take their part in the constitution-making body.

His Majesty's Government are proceeding to the consideration of the content of the treaty which will require to be concluded between Great Britain and India.

During these preparatory stages the government of India must be carried on, and urgent economic and social problems must be dealt with. Furthermore, India has to play her full part in working out the new World Order.

His Majesty's Government have therefore further authorised me, as soon as the results of the Provincial elections are published, to take steps to bring into being an Executive Council which will have the support of the main Indian parties.

That is the end of the announcement which His Majesty's Government have authorised me to make. It means a great deal. It means that His Majesty's Government are determined to go ahead with the task of bringing India to self-government at the earliest possible date. They have, as you can well imagine, a great number of most important and urgent problems on their hands; but despite all their preoccupations they have taken time, almost in their first days of office, to give attention to the Indian problem, as one of the first and most important. That fact is a measure of the earnest resolve of His Majesty's Government to help India to achieve early self-government.

The task of making and implementing a new Constitution for India is a complex and difficult one, which will require goodwill, co-operation and patience on the part of all concerned. We must first hold elections so that the will of the Indian electorate may be known. It is not possible to undertake any major alteration of the franchise system. This would delay matters for at least two years. But we are doing our best to revise the existing electoral rolls efficiently. After the elections, I propose to hold discussions with representatives of those elected, and of the Indian States to determine the form which the constitution-making body should take, its powers and procedure. The draft declaration of 1942 proposed a method of setting up a constitution-making body but His Majesty's Government recognise that, in view of the great issues involved and the delicacy of the minority problems, consultation with the people's representatives is necessary before the form of the constitution-making body is finally determined.

The above procedure seems to His Majesty's Government and myself the best way open to us to give India the opportunity of deciding her destiny. We are well aware of the difficulties to be overcome but are determined to overcome them. I can certainly assure you that the Government and all sections of the British people are anxious to help India, which has given us so much help in winning this war. I for my part will do my best, in the service of the people of India, to help them to arrive at their goal, and I firmly believe that it can be done.

It is now for Indians to show that they have the wisdom, faith and courage to determine in what way they can best reconcile their differences and how their country can be governed by Indians for Indians.



CONGRESS RESOLUTION ON UNITED INDIA AND  
SELF-DETERMINATION  
September 1945

*[The Congress Working Committee met on September 12-18 and 21-24, 1945, and adopted a resolution restating the party's position on the question of a United India vis-a-vis Pakistan, which the Muslim League had been insistently demanding in the name of 'self-determination' for the Muslims. The resolution reiterated the Congress stand on the framing of the future Constitution. The text of the resolution is reproduced below.]*

AS SOME MISAPPREHENSIONS have arisen in regard to certain resolutions of the All-India Congress Committee and of the Working Committee passed in 1942 relating to the future constitution of India, the Working Committee restates the position as follows:

In accordance with the August 1942 resolution of the All-India Congress Committee it will be for a democratically elected Constituent Assembly to prepare a constitution for the Government of India, acceptable to all sections of the people. This constitution, according to the Congress view, should be a federal one, with the residuary powers vesting in the Units. The fundamental rights as laid down by the Karachi Congress, and subsequently added to, must form an integral part of this constitution. Further, as declared by the All-India Congress Committee at its meeting held in Allahabad in May 1942, the Congress cannot agree to any proposal to disintegrate India by giving liberty to any component State or territorial Unit to secede from the Indian Union or Federation. The Congress, as the Working Committee declared in April 1942, has been wedded to Indian freedom and unity and any break in that unity, especially in the modern world when people's minds inevitably think in terms of ever larger federations, would be injurious to all concerned and exceedingly painful to contemplate. Nevertheless, the committee also declared, it cannot think in terms of compelling the people in any territorial unit to remain in an Indian Union against their declared and established will. While recognizing this principle, every effort should be made to create conditions which would help the different Units in developing a common and co-operative national life. The acceptance of the principle inevitably involves that no changes

should be made which result in fresh problems being created and compulsion being exercised on other substantial groups within that area. Each territorial Unit should have the fullest possible autonomy within the Union, consistently with a strong national state.

STATEMENT OF THE SECRETARY OF STATE  
FOR INDIA  
December 1945

*[On December 4, 1945, in a statement in the House of Lords, Pethick-Lawrence, Secretary of State for India, affirmed that His Majesty's Government regarded the setting up of a constitution-making body in India as a matter of the greatest urgency. He announced that a parliamentary delegation would soon be visiting India to meet Indian leaders and assure them that H.M.G.'s new policy towards India, as outlined in the Viceroy's announcement of September 19 (see Document No. 40), would be speedily implemented. The text of the statement is reproduced below.]*

THE STATEMENT MADE by the Viceroy after his return to India contemplates steps which His Majesty's Government propose should be taken to promote early realization of full self-government in India. The full significance of these proposals does not seem to have been properly appreciated in India. Since it is the firm conviction of His Majesty's Government that it is by, and in consultation with, directly elected representatives of the Indian people that decisions as to the future governance of British India should be taken, it was a necessary preliminary that elections should be held to the Provincial Legislatures and the Central Assembly in India. It was announced that after the elections in India preparatory discussions would be held with the elected representatives of British India and with the Indian States in order to secure the widest measure of agreement as to the method of framing the constitution.

Unjustified suggestions have gained wide currency in India that these discussions would be a fruitful source of delay. I desire to make it plain that His Majesty's Government regard the setting up of a constitution-making body, by which Indians will decide their own future, and also other proposals embodied in the announcement as a matter of the greatest urgency.

This misunderstanding has led His Majesty's Government to consider whether opportunities of personal contact between this country and India, which have been greatly interrupted during recent years, cannot now be increased.

They regard it as a matter of importance that members of our own Parliament should have an opportunity to meet leading political Indian personalities to learn their own views at first hand. They would also be able to convey in person the general wish and desire of the people of this country that India should speedily attain her full and rightful position as an independent partner state in the British Commonwealth and the desire of Parliament to do everything within our power to promote speedy attainment of that objective.

His Majesty's Government are, therefore, arranging for a Parliamentary delegation to go to India under the auspices of the Empire Parliamentary Association. The intention is that this party should leave this country as soon as possible. In view of the difficulties of transport, it will be limited in size. The delegation will be selected by the Association in consultation with Parliamentary representatives of the chief political parties in this country.

## CONSTITUTIONAL PROPOSALS OF THE SAPRU COMMITTEE December 1945

*[Following the failure of the Gandhi-Jinnah talks held in September 1944\* the Standing Committee of the Non-Party Conference, on the initiative of its Chairman, Tej Bahadur Sapru, made a fresh bid to facilitate a settlement of the communal problem and to break the political stalemate in the country. The Standing Committee met at New Delhi on November 18-19 and adopted a resolution deciding to appoint a committee which would examine the whole communal and minorities question from a constitutional and political point of view and 'present a solution'. The idea was to set up 'a sort of conciliation board' consisting of persons who did not belong to any of the recognised political parties and who could bring to bear upon the controversial issues involved an open mind. The proposal had the approval of Gandhiji.]*

*The Committee, as set up later, consisted of 30 members with Sapru as Chairman. Prominent among the members were: M. R. Jayakar, P. R. Das, Syed Wazir Hasan, S. Radhakrishnan, N. Gopalaswami Ayyangar, Homi Modi, Maharaj Singh, Muhammad Yunus, N. R. Sarkar, John Mathai, Frank R. Anthony, Sachchidananda Sinha, N. M. Joshi, Harnam Singh and Fazal Ibrahim Rahimtoola. The first sitting of the committee was held at Delhi from December 29 to December 31. After ascertaining the views of the leaders of different parties and communities, the committee made certain proposals which were published in the form of a report in December 1945. The relevant extracts from Chapter IX of the report, setting out the committee's views and suggestions regarding the 'making of the new constitution' are reproduced below.]*

### THE MAKING OF THE NEW CONSTITUTION

414. IT IS NOW no longer disputed that India's new constitution should be drawn up by Indians themselves. This was for the first time

\*These talks were marked by an attempt to explore the possibilities of reaching an agreement with the Muslim League so that its demand for Pakistan might be reasonably satisfied.

authoritatively conceded by Lord Linlithgow in his statement of the 8th August 1940. He then said :

There has been very strong insistence that the framing of that scheme (a new constitutional scheme) should be primarily the responsibility of Indians themselves, and should originate from Indian conception of the social, economic and political structure of Indian life. His Majesty's Government are in sympathy with that desire and wish to see it given the fullest practical expression subject to the due fulfilment of the obligations which Great Britain's long connection with India has imposed upon her and for which His Majesty's Government cannot divest themselves of responsibility. \* \* \* His Majesty's Government authorise me to declare that they will most readily assent to the setting up, after the conclusion of the war with the least possible delay, of a body representative of the principal elements in India's national life in order to devise the frame-work of the new constitution, and they will lend every aid in their power to hasten decisions on all relevant matters to the utmost degree.

415. The Cripps Offer of 1942 not merely outlined the procedure that His Majesty's Government proposed to adopt in this connection but gave the undertaking that they would "accept and implement forthwith the constitution so framed". The broadcasts dated 19th September 1945 of the Viceroy and the Prime Minister have given indications of the steps that, on the completion of the Provincial Elections, are proposed to be taken before the setting up of a constitution-making body is decided on.

416. The British War Cabinet's Declaration of 1942 has been described as "an offer of self-determination in two senses of the phrase. Not only would the new constitutional settlement enable India to secede, if she wished, from the British Commonwealth and determine her own place in the international world. The constitution itself was to be framed by Indians and by Indians only."\* The offer, however, contained snags which gravely detracted from its value to the people of India. The formal recognition of the right to secede from a Commonwealth of which, at the time of the inception of the new constitution, India is willing to be a part, is at best of academic interest. Actual secession, which means the severance of all constitutional ties, must find its justification in its being, on the merits, in the best interests of India, and can be successfully implemented only when we have built up strength enough to get away with it.

If and when, in the best interests of India and with the support of the large mass of her citizens, we decide to go out of the Empire and our position and strength *vis-a-vis* the world and the Empire are such as to make it unlikely that any Government in Great Britain would, or could successfully, use force to compel us against our will to remain in the Empire, we shall be able successfully to exercise this inherent right in all sovereign peoples whether it is now incorporated in a statute or not\*\*.

\*Coupland, *Constitutional Problem of India*, Part III, p. 30.

\*\*N. Gopalaswami Ayyangar, *Indian Review*, Feb. 1944, p. 51.

417. We would attach greater value to the other aspect of self-determination referred to above, namely, that the constitution is to be framed by Indians and when so framed will be accepted and implemented by Britain. It is unfortunate that, in the present conditions of the country and in view of the continuance of British Power until the constitution is framed and a peaceful transfer of power is actually effected, we cannot think of a Constituent Assembly in the strict sense, an Assembly which has seized supreme power for the time being, has behind it the sanction of the overwhelming support of all elements in India's national life and will, with the power and resources immediately at its command, be able at once to implement whatever constitution it decides on. The constitution-making body of the Cripps Offer is intended to play the less spectacular role of framing a constitution which will provide for full self-government for India, of negotiating a treaty with Britain on a footing of equality and honour and of effecting in a peaceful manner the transfer of all powers necessary for the Government of India from those to whom they belong under the existing constitution to those to whom they will belong under the new constitution. Circumstanced as we are, we have no practicable alternative but to acquiesce in the setting up of such a constitution-making body and the role to be assigned to it.

418. The acceptance and implementation of the constitution settled by the constitution-making body is, however, subject, under the Cripps Offer, to the right of any Province or Indian State not to accept the new constitution but to stand out of it, and either (a) to retain its present constitutional position, or (b) to obtain dominion status separately either for itself or in combination with other non-acceding Provinces or States, as the case may be. The option is to be exercised after the new constitution has been framed and, *ex hypothesi*, after all Provinces and States have participated in the framing of it.

419. So far as the Indian States are concerned, their present status in Indian polity and the inherent difficulties of incorporating all of them at once in a Federation on substantially the same footing as the Provinces would seem sufficient justification for their electing to stand out of the Federation until they are able to see their way more clearly. If they so stand out at the start, they should be able—as we have explained in our Chapter on Indian States—only to retain their present status with the inescapable modification that, until they enter the Federation, paramountcy will be exercised not by the British Power but by the new Federal Government of India. The idea of single States or of groups of States being permitted to form separate Dominions of their own—which, in the exigencies of a conversational battle with the representatives of the Princely Order, Sir Stafford Cripps light-heartedly committed himself to in 1942—hardly deserves serious examination. We have pronounced ourselves against it.

420. The graver mischief to the country is contained in the option given

to the Provinces. Before examining the details of this option we desire to invite prominent attention to one significant point. The Cripps Offer does not confer the right of secession from the Federation on any unit—Province or State—after it has once acceded to it. This, in our view, is correct policy and we have embodied it in the latter part of our Recommendation No. 6 : “Nor may any unit, whether a Province or a State, which has acceded, be entitled to secede therefrom”—*i.e.* the Federation. We do not wish to repeat here or to elaborate further the arguments we have set forth elsewhere on the rights of self-determination and of secession. If statutory recognition of the right of secession is only of academic interest in the case of a loosely bound association of practically sovereign states like those included in the British Commonwealth of Nations, it will constitute a positive political danger in the case of the units of a Federal State in which the Federal Centre “has of necessity not merely to shoulder supremely essential governmental tasks which the units cannot and it alone can, discharge, but to exercise over the units, supervising, controlling and co-ordinating jurisdiction in legislation and administration in view to ensure the successful functioning of disciplined democratic self-government among them.” Secession constitutes a revolt from, and a repudiation of, the constitution. It is in essence, therefore, an extra constitutional act. It would be against commonsense for the constitution to recognise it as a legal right to be unilaterally exercised at the option of the Unit. To quote Professor W. K. Hancock :

It is illogical that any society, whether of men or of nations, should begin by postulating the right of its members to secede from it....No political society can hope to flourish if its members can flounce out of it whenever it shows a tendency to fulfil the purposes for which it was created.

After stressing the point that a political structure, whether a State or Society or Commonwealth of Nations, has to be founded on a philosophy of social obligation, he proceeds :

It would be intellectually incompetent or dishonest to rest it entirely upon a philosophy of individual right. Individual right, whether of men or of nations, has its place in every healthy social theory. But its ultimate expression—as resistance, revolution or secession—cannot honestly be written into the constitution\*.

421. The option given to Provinces in the 1942 Declaration is, however, not described as one of secession but as one of non-accession. This, however, is only verbal camouflage. British India is now a unitary State. Its conversion into a federal State has, when in progress, been arrested by the suspension indefinitely of the federal part of the Act of 1935. Provincial Autonomy has, however, been introduced and all the Provinces and their Governments have been reorganised to fit them as Units of the Federation

\*W. K. Hancock's *Survey of British Commonwealth Affairs*, Vol. I, p. 503.



when it comes to be established. The 1935 Act gave no option to any of the Provinces to elect not to accede to the Federation. No province as such has up to date put forth any claim for any such option. Even the Lahore Resolution of the Muslim League of March 1940 did not make any such claim in favour either of any of the existing provinces or of the existing provinces in general; it only asked for the constitution of independent States in the North-West and North-East zones of India in geographically contiguous areas in which the Muslims were in a numerical majority. And yet the Cripps Declaration gratuitously made this offer to all provinces and in very general terms—an offer which is directly responsible for the growing strength which the agitation for breaking up the unity of India has gathered since. An election on the part of any Province not to accede to the Federation after the constitution has been framed will in effect be a secession from the "Union of Provinces" which already exists. If, after declining to accede to the new constitution, a province elects to retain its present status, a separate centre will have to be improvised for it for attending to functions now discharged by the Governor-General in Council! If it and other Provinces acting similarly wish to have a Dominion or Dominions of their own, India would get effectively balkanised! It is extraordinary that a Government in Britain—with all its background of political and constitutional history—should have made itself responsible for a proposal which, if only acted upon in India, would effectively undo the great work of unification that Britain herself has done here for over a century and a half. We are clearly of opinion that the offer of this option was a mistake, if nothing worse, and should be withdrawn. We have accordingly recommended that "no province of British India may elect not to accede to the Union."

422. The constitution to be framed will be for an Indian Union covering the entire area both of British India and of the Indian States. We are anxious that this constitution should be framed and brought into force with the least possible delay. To ensure this, we have postponed, for leisurely examination after the new constitution has commenced to function, two problems to which considerable importance is attached. The first of these has reference to bringing a minimum number of Indian States into the Federation part of the Union Constitution. We do not wish to repeat here what we have said on this point in the Chapter on Indian States. The second problem relates to the redistribution of Provinces. Historical accident and administrative exigencies have contributed to a by no means ideal division of the country into Provinces. We are aware of the strength of the arguments based upon language, culture, and the need for reduction of glaring inequalities in area and population, which call for a rational realignment of provincial boundaries. But such realignment will mean a great deal of time and very careful investigation and we do not think that the attainment of full self-government should be held up

until it is completed. We have therefore recommended :

While it is not desirable that the new constitution should be delayed by the realignment of provincial boundaries on linguistic or cultural considerations, the constitution act shall indicate the machinery and prescribe the procedure for such realignment of old Provinces and for the creation of new Provinces after it has come into force and, on such realignment or creation of Provinces, all consequential amendments may be made in the constitution.

423. We shall now turn to the proposed constitution-making body. We desire to emphasise at the outset the fact that this body is to frame a constitution for a Single State. By its very nature it cannot debate, and reach a decision on, any preliminary issue as to whether a single constitution is to be framed for a united India or whether a number of constitutions are to be framed for the different independent States of a divided India. If the decision should be in favour of the latter alternative, there will have to be as many constitution-making bodies as there will be independent States and the body originally summoned will have to be scrapped ! The Cripps Declaration avoided this difficulty by stipulating for the making of a constitution for a single Indian Union and by giving an option thereafter to each unit to accede or not to accede. We have argued against this option already; it would be anomalous that the decision of a constituent body should not be binding on the units who participate in the deliberations, especially if such a body is to function as a plenary body with full power to negotiate and execute a treaty with His Majesty's Government. If this view of ours is acceptable the alternative that the protagonists of division will ask for is that the issue of one or more independent States should be decided before the constitution-making body is set up. Whether this issue is to be allowed to be raised at all and, if raised, by what Authority, machinery and procedure it should be decided, are matters which will require consideration, if at all, independently of the constitution-making body. We, as a committee, have emphatically pronounced ourselves against the division of India into two or more independent sovereign States and, as a necessary corollary thereto, we accept the Cripps proposal, viz., the setting up only of one constitution-making body charged with the function of framing a constitution for a single Union for all India, but with no option to any of the units to back out of it after its final terms have been settled by the body.

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OUTLINES OF A NEW CONSTITUTION BY  
B. N. RAU  
January 1946

*[In January 1946, as elections to the Provincial Assemblies were still in progress, B. N. Rau made an attempt to work out a constitutional scheme acceptable to the Congress and the Muslim League who had gone to the polls on the issues of 'Quit India' and 'Pakistan' respectively. B. N. Rau admitted that to devise a workable solution was far from easy and objections could be found to almost any solution. The essence of his scheme was that there should be no domination of one community by another but that this essential principle should be ensured without sacrificing the unity of India which was essential for purposes equally beneficial to all. The outlines of the proposed scheme alongwith prefatory and explanatory notes and memoranda by B. N. Rau are reproduced below.]*

ACCORDING TO present indications, the result of the general elections now in progress (at the end of 1945) will most probably be that the Congress will capture almost all the non-Muslim seats and the Muslim League almost all the Muslim seats. The only important non-Congress group likely to win some of the non-Muslim seats is the Akali Sikh, and the only important non-League group likely to win some of the Muslim seats is the Unionist, both groups being in the Panjab. But on the main political issue in India today, namely, "Pakistan", this division is not material, for the Unionist Muslims hold or profess to hold the same view on this issue as the League, while the Akalis are even more opposed to Pakistan than the Congress.

The League has gone to the polls on the issue of Pakistan. More precisely, the League demand is that the existing British Indian provinces of the Panjab, the North-West Frontier, Sind and Baluchistan on the west, and Bengal and Assam on the east, should be recognised as an independent sovereign State, subject, later, to such territorial adjustments as may be necessary. The Congress has gone to the polls on the issue of "Quit India". If we have to act on the result of the elections, attaching equal weight to the verdicts on both issues, the new constitution should provide not only for the transfer of power but also for the substance of Pakistan.

It should be mentioned that the Congress has accepted the principle of self-determination in this connection. In other words, in spite of some vagueness, the Congress too seems to be prepared to concede some kind of "separation", subject to certain territorial readjustments.\*

It is when we come to the question of territorial adjustments that the difficulties seem almost insuperable. To begin with, Assam, considered as a province, is not predominantly Muslim : out of its total population of about 10 million, only one-third is Muslim, so that self-determination in the case of Assam would mean its exclusion from Pakistan. Then there are large areas in Bengal which are predominantly Hindu; all the districts of the Burdwan Division and several districts of the Presidency Division, including, in particular, Calcutta, are of this character. Here again, self-determination would mean their exclusion from Pakistan.

Similarly, there are large non-Muslim blocs in the Panjab ; in fact, all the districts of the Ambala and Jullundur Divisions and the Amritsar district of the Lahore Division are predominantly non-Muslim. If all these territories are excluded from Pakistan on the principle of self-determination, what remains would not be self-supporting in the crucial sphere of defence : it would not have enough money to pay for its own defence and would have to rely on the rest of India. This was Coupland's verdict, even with Assam, Calcutta and the Jullundur Division of the Panjab included in the Muslim zones. With these areas excluded, and in face of Russia's recent moves in Iran, the position of Pakistan would be impossible. On the other hand, if in order to establish a safe and solvent Pakistan, we were to include in it the large blocs of non-Muslim territory referred to above, there would be the bitterest opposition from the Hindus and the Sikhs, leading almost to civil war.

To devise a workable solution in these circumstances is far from easy and objections can be found to almost any solution. In the succeeding paragraphs an attempt is made to outline a solution which may be worth consideration. If it is published at once, it is likely to be attacked from all sides : the Hindus may attack it on the ground that it is almost "Pakistan" and the Muslims may attack it on the ground that it is not completely "Pakistan". At a later stage, after the parties have met and wrestled with the problem and fully realised its difficulties, they may reverse roles; and the Hindus may accept it because it does not concede the whole of the Pakistan claim and the Muslims may accept it on the ground that

\*See Jawaharlal Nehru's speech at the All India States Peoples' Conference (at Udaipur) on January 1, 1946: "The Congress did not want to compel any unit to join the Federation against its will. At the same time the Congress was not prepared to make concessions to fissiparous tendencies and to demands which would disintegrate and ruin India... I would not oppose Muslims in the Punjab or Bengal if they voted for separation but none would allow them to drag other communities with them".

it concedes the substance of "Pakistan". The publication of the proposal must, therefore, be deferred until the proper moment arrives.

The proposal proceeds on the basis that "Pakistan" should be conceded to the utmost extent possible; but since the security of India is likely to be impaired, its credit lowered and its influence in international councils weakened by internal divisions, India should, for certain purposes, be a single entity. *The essence of the scheme is that while domination of one community by another is to be prevented, the unity of India is to be preserved for purposes equally beneficial to all.*

## OUTLINES OF THE PROPOSED SCHEME

I. *India is to be a Federation which may be called the "United States of India".\**

II. (1) *The territories comprising the Federation are to be in three groups:*

*Group 'A', comprising the central region: that is to say, the existing British Indian provinces of Madras, Bombay, the Central Provinces and Berar, Orissa, the United Provinces, Bihar, Delhi, Coorg, Panth Piploda and Ajmer-Merwara.*

*Group 'B', comprising the frontier regions: that is, the existing British Indian provinces of the Panjab, the North-West Frontier Province, Sind and British Baluchistan on the west and Bengal and Assam and the Andaman and Nicobar Islands on the east.*

\*Jinnah will not like the term "Federation", because what he wants is a sovereign independent Pakistan State. But complete sovereignty and financial incapacity for self-defence cannot co-exist. Some portion of sovereignty will have to be ceded in the interests of safety and the only question is whether the terms of the cession are fair. Whether the cession takes place by *ad hoc* agreement or under an agreed federal constitution should be immaterial. Perhaps "cession" is a misleading term, for under such a constitution, both Pakistan and the rest of India will be pooling a portion of their respective sovereignties for a common purpose. Names should not really matter. The substance is the thing. For instance, according to His Majesty's Government, Southern Ireland is a part of the British Commonwealth; in the Statute of Westminster it is mentioned as a Dominion. But according to De Valera, it is part of the sovereign independent State of Eire or Ireland, and it is so described in the Irish Constitution Act now in force. Actually His Majesty still acts, and is authorised to act, for Eire, as for other Dominions of the Commonwealth, in certain matters connected with external relations. Mere names should not, therefore, be allowed to stand in the way. The particular Federation here outlined concedes the substance of the Pakistan demand. If even the name is to be avoided, some such term as "Commonwealth" may be used instead. Both Jinnah and the Princes may like the name "United States of India", because it implies that the units, as in the United States of America, are in a sense sovereign States.

*Group 'C', the existing Indian States.\**

(2) *His Majesty may, by Order-in-Council, at any time after ascertaining the wishes of the local population, transfer to Group A or to Group B any territory which, under the preceding sub-clause, appertains to some other group.†*

An examination of the scheme proposed in this memorandum will show that under it there will be no great temptation for, say, the Sikhs and Hindus of the Panjab to ask for the transfer of any areas to Group A. By remaining in Group B, they will be no worse off than under a loose Federation with a "minimal Centre", such as even the Congress is prepared to accept. Under a "minimal" Federation, all the affairs of Group B except in the minimal sphere of defence, external affairs and a few other subjects, would be administered by the responsible provincial governments; in particular, those of the Panjab would be administered by a provincial Cabinet in which the Hindus and Sikhs may perhaps expect to get three out of seven seats. Under the scheme proposed here, they would be administered in part by the provincial Cabinet and in part by the Federal Cabinet of Group B where the Hindus and Sikhs can expect to get two out of five seats.

Under the present scheme it is intended that except in the "minimal" sphere, each group should have its own Federal Cabinet for its own affairs. (See clause IV *infra*.) But, of course, there is one Governor-General for the whole Federation. These communities are therefore hardly worse off under the proposed scheme than under the other scheme and should therefore have no greater incentive to transfer to Group A under the one than under the other. Indeed, by such a transfer, the position of those of their co-religionists who are left in Group B after the transfer would be gravely prejudiced; for, instead of being part of a very substantial minority well able to look after itself, it would be reduced to the position of an important minority. It must not therefore be taken for granted that there will be a desire on the part of these communities, under the present scheme, to transfer to Group A.‡

If, however, there should be such a desire, His Majesty's Government should have power to meet it and hence the provision in sub-clause (2). The power can hardly be exercised by the Federal Government, for the

\*For some time to come, there will be these three groups though they may not be composed precisely of the territories mentioned above: there will be a Central Group, there will be another group which will not willingly "unite" with the Central group, and there will be Indian States which will not "unite" with either. Ultimately it may be hoped that all three groups will "unite"; but for the immediate present, whether we like it or not, they have to be treated for certain purposes as separate.

†It will be noticed that Group 'B' is Jinnah's "Pakistan" with the trivial addition of the Andaman and Nicobar Islands. Power is to be given to His Majesty's Government to make the necessary territorial adjustments from time to time.

‡The very fact that important areas like Calcutta may go out if badly treated will be a powerful safeguard for them.

matter is one on which the Federal Cabinets of Groups A and B are likely to differ; hence the vesting of the power in His Majesty-in-Council. Precisely what territories should be transferred to Group A is a question which will be dealt with in a separate memorandum.\* Apart from transfers of territory arising out of the Pakistan issue, transfers may be necessary from time to time from Group C to Group A or B in connection with future schemes of attachment.

A question arises here whether in the event of, say, the Panjab being partitioned under sub-clause (2), one part falling in Group A and the other in Group B, the provincial boundaries should be altered. No such alteration seems immediately necessary. Both parts will continue to be under the same provincial government as before for all provincial purposes; and for federal purposes they will continue as before to be under the orders of the same Governor-General. The only result of the partition is that in the federal sphere the Governor-General will act on the advice of one set of ministers in respect of one part and of another set in respect of the other part. This need not cause any difficulty. For instance, Sind and Bombay were at one time in the same province; but for army purposes they were in different commands, so that presumably in problems relating to Sind, the Commander-in-Chief consulted the General Officer commanding Western Command and in those relating to Bombay the General Officer commanding Southern Command. Two areas may form part of the group or unit for one set of purposes and of different groups or units for another set. So long as the arrangement works nothing else really matters. Such anomaly as there may be must be attributed to the anomalous conditions now existing in India; it will disappear when there is a general revision of provincial boundaries in India. Meanwhile, the fact that all federal orders issue in the name of the same Governor-General saves legal appearances.†

*III. There is to be one Federal Legislature, but it may sit in parts corresponding to the three groups of territories. In other words, the functions of the Federal Legislature in respect of each group of territories may be*

\*See Memorandum I.

†A word of explanation is necessary as regards the inclusion of group C in the Federation. At first sight it may seem that the Indian States cannot be so included until they have acceded to the Federation; but, as has been shown in a separate memorandum (see Memorandum II), even if none of them has acceded, it will be impossible in practice under a Dominion Constitution for the Viceroy to exercise the existing paramountcy functions of the Crown except through a Dominion minister. Indeed, in the sphere of defence and external affairs, the States have already ceded their sovereignty to the Crown, and accession in this sphere will merely mean agreeing to the exercise of the relevant functions by the Crown through the head of the Indian Federation instead of through a separate Crown Representative: no new cession of sovereignty is required, in fact, therefore, the States must be given some voice in the Federal Executive, though until formal accession they need not be represented in the Federal Legislature.

*discharged, if circumstances so require, by the members of that group alone.\**

IV. (1) *The executive authority of the Federation is to be exercised by a Governor-General and there is to be a Privy Council of India to aid and advise him in the discharge of his functions.†*

(2) *There shall be separate Executive Committees of the Privy Council for each of the three Groups 'A', 'B' and 'C'.‡*

(3) *The Governor-General, after consulting the executive committees of all three groups, is to make rules for the more convenient transaction of the business of the Federal Government and for the allocation of portfolios to his ministers, but all executive action of the Federal Government shall be expressed to be taken in the name of the Governor-General.§*

\*Initially, and until a prescribed number of the Indian States have "acceded", there will be no representatives of Group C in the Federal Legislature. After accession there will be.

In the interests of uniformity of laws, it is to be hoped that the Federal Legislature will always sit as a whole; but if, say, Group 'B' wishes to enact a law for itself not affecting the other groups, it should have liberty to do so and the other groups will not participate in the making of that law. The law so made will be a federal law, but its local extent clause will make it clear that it extends only to Group 'B' territories. Even at present there are laws of the Indian Legislature which do not extend to all India; in fact, none of them extends *proprio vigore* to Group 'C'. Under the proposed scheme, laws of this kind, not meant to apply to Group 'C', can be enacted by the members of the Federal Legislature belonging to Groups 'A' and 'B' alone. The scheme ensures legislative independence for "Pakistan" and incidentally avoids one of the defects of the Federation of the Act of 1935, namely, that it gives the Indian States' representatives a voice in British Indian federal legislation of all kinds—including concurrent list legislation—while it does not give the British Indian representatives a voice in legislating for the States except in those matters on which the States have "acceded".

In the executive sphere, of course, this kind of division of work is very familiar to all. For example, in England an Order of His Majesty-in-Council is often prepared by a single minister, e.g., the Secretary of State for India or the Secretary of State for the Colonies and it is passed by the Council as a matter of course; but so far as the courts of law are concerned, it is an Order of His Majesty made at a meeting of the Privy Council. So too in India there are orders which go out as orders of the Governor-General in Council, but are actually made by a single member. The scheme now proposed is an extension to the legislative sphere of what already prevails in the executive.

†This will correspond to the Privy Council in England, Canada, Australia, (where it is called the Federal Executive Council) and elsewhere. The ministers of State are all members of the Privy Council in each of these countries, but there may be members of the Privy Council who are not ministers.

‡This, again, is not an innovation. It will be remembered that in the Government of Ireland Act, 1920, there was provision for a single Privy Council for the whole of Ireland, and there were separate Executive Committees of the Council for Southern Ireland and Northern Ireland. There is therefore nothing new in having regional Cabinets formed out of one single Privy Council.

§An indication of the rules contemplated under this plan must now be given as they are perhaps the most important part of the plan. It is contemplated that there



V. (1) *The Executive Committee for Group A shall be elected by the representatives of that group in the Chambers of the Legislature at a joint session on the Swiss plan; and similarly, the Executive Committee for Group*

is to be a separate Cabinet with a Chief Minister for each group. A rule may be made or a convention may be set up that the Chief Ministers of the several groups will by rotation be Prime Ministers of the Federation; no particular functions attach to the Federal Prime Minister as such, but he will represent the Federation in international councils (with or without others), on ceremonial occasions, etc.

The rules of business should provide, in the first place, that if a case relates exclusively to a single group, say, Group B, it must be submitted to the Chief Minister of that particular group for disposal. He will, if necessary, consult his own Cabinet, or, if there has been devolution of powers within the Cabinet, obtain the orders of the particular minister concerned and dispose of the case. The resulting order will go out as the order of the Governor-General. If the case concerns Groups A and B but not C, it must be submitted to the Chief Ministers of A and B, one after the other, and any order proposed to be issued must have the concurrence of both; if they cannot agree, the *status quo* will remain; or the Governor-General may with their consent have the final decision. If Groups A and B were independent States, the result of disagreement would be the continuance of the *status quo* and the first alternative therefore amounts to treating them as if they were independent; and the second alternative is equivalent to arbitration with the consent of the two States. This second alternative is necessary because there may be cases where a final decision is indispensable. Finally, if the case concerns all the three groups, it must be treated as a 'Full Council' case; the Cabinets of all three groups would then sit together and dispose of it. All cases relating to defence or external affairs or the budget of the Federation would be of this nature; there may be others, a list of which may be framed by the Governor-General for the purposes of this rule after consulting the Chief Ministers of all three groups. In practice, there will doubtless be delegations of various kinds even in "Full Council" cases, which will make it unnecessary to have a Full Council session for every such case. For example, in the sphere of defence, one of the earliest developments to be expected under the new regime is the emergence of a statutory Defence Council (as in the Dominions)

consisting of, say, a minister of  $\frac{\text{Group A}}{\text{Group B}}$  (to be designated the Federal Defence Minister), another minister of  $\frac{\text{Group B}}{\text{Group A}}$  (who may be called the Deputy Defence Minister), the Supreme Commander, the Commanders-in-Chief of the Army, the Navy and the Air Force and the Financial Adviser; the day-to-day administration of the department may be entrusted to this body with power to delegate functions to individual members, so that only the largest questions of policy—such as the sending of troops out of India—would fall to be decided by the Full Council. Similarly, for federal Finance there may be a Treasury Board.

It is contemplated that all three executive committees would have a common Secretariat and the question of deciding whether a given case affects one or more than one group will, in the first instance, have to be decided by the Secretary. In cases of doubt, the doubt may be left to be resolved by the Governor-General.

The most obvious inconvenience of this arrangement is that it will mean a distribution of portfolios not only according to subject-matter but also according to territory. Thus, there may have to be a Railway Member for Group A, and another for Group B. On the other hand, there may be fewer members in each group. For example, instead of a Member for Railways for the whole of British India and

*B by the representatives of that group :*

*Provided that the Governor-General may at any time in pursuance of an address presented to him by both Chambers of the legislature of both groups adopt any other mode of selecting the members of the Executive Committees.*

(2) *Pending the formal accession of a prescribed number of Indian States, the Executive Committee for Group C shall be appointed by the Governor-General after consulting the Chief Ministers for Groups A and B and such Rulers of the States as he may think fit.*

(3) *Indian States will accede as and when the Rulers desire and upon such terms as may be agreed upon between the Federation and the State concerned.\**

another for Public Works, there may be a Member for Railways and Public Works for Group A and another for Group B, so that the total number of members will be the same in either case. Indeed, even at present, there is only one minister (so to speak) for Group C, namely, the Political Adviser, who alone advises the Crown Representative in respect of all matters concerning all the Indian States, whatever the subject may be. It may be that the distribution of portfolios according to subject-matter makes for greater efficiency; but one cannot have efficiency *plus* economy *plus* satisfaction of political sentiment *plus* everything else at the same time. For the moment political sentiment has to be respected. Perhaps, at some future date, under happier political conditions when the regional Cabinets have discovered that their disagreements are small and infrequent, a better distribution of work will become possible.

From the point of view of the Muslim League, a defect of this plan is that it does not give the Pakistan areas, that is, Group B, full independence in all matters including defence and external affairs. Under the rule suggested above, these matters will be dealt with by the ministers of all three groups at a joint session, the decision being by a majority. This seems inevitable. If the areas in question cannot pay for their defence and have to rely for it on the other groups, those other groups who have to find the money cannot be deprived of their full weight in the final decision. It is not a question of mere numerical superiority, but also of who contributes most to the cost. That is one aspect of the case. The other is that in the future, policy in the matter of defence or external affairs or tariffs or currency will be largely determined by "agreements made and responsibilities undertaken in accordance with the new international order"; there will not therefore be much room for the fear that the policy will be dominated by communal interests (Coupland's *The Future of India*, p. 174).

The composition of the full Council, that is, of all three Cabinets taken together is likely to be six Hindus (other than Scheduled Castes), six Muslims, one Sikh, one Scheduled Caste and one Indian Christian.

It is hardly necessary to point out that rules of business are far more elastic than statutory provisions and can be altered as soon as they are found to be irksome or cumbrous or defective.

\*The features of the Swiss plan are well-known : the ministers are elected for the term of the legislature by the members of the two Houses of the Federal Legislature sitting together. Persons who are not members are eligible for election. Once elected, the ministers cannot be thrown out of office by a vote of non-confidence during the life-time of that particular legislature; but, of course, these need not be re-elected by the next legislature. The mode of election is proportional representation. This plan secures the federal principle better than the British convention and

VI. *The United States of India shall recognise the following matters as amongst their primary and most urgent responsibilities :*

- (1) *The promotion of peace both within and outside India.*
- (2) *The raising of the level of nutrition and the standard of living of the people of India.*
- (3) *The provision of educational facilities so as to promote equality of educational opportunity.*
- (4) *The improvement of public health.\**

#### GENERAL NOTE ON SCHEME

The above explanations have had to be long and detailed, since the scheme has some novel features. But the statutory provisions required will be few. In fact it may be said that the constitution, under the proposed scheme, is mainly in the rules of business, just as the British Constitution is mainly in its conventions. This is an advantage, because it makes the constitution flexible.

is at least initially better adapted to existing Indian conditions. It secures some measure of stability and continuity of policy for the administration without destroying the element of responsibility to the legislature and it gives minorities a fair chance of obtaining representation in the executive.

The number of members in the Executive Committee for Group A may be initially seven, for Group B five, and for Group C three. In suggesting these figures it is assumed that there has been no transfer of territory from one group to the other. If proportional representation is adopted, the communal complexion of the Executive Committees for A and B will probably be :

##### *Group A*

Hindus (other than Scheduled Castes)	.. 4
Muslims	.. 2
Scheduled Castes or Indian Christians or other minority	.. 1

##### *Group B*

Muslims	.. 3
Sikhs	.. 1
Hindus	.. 1

With Group C thrown in, the communal distribution of the full Council is, under the proposed plan, likely to be:

Hindus (other than Scheduled Castes)	.. 6
Muslims	.. 6
Scheduled Castes	.. 1
Sikhs	.. 1
Indian Christians & others	.. 1

Thus, even when a matter goes to the full Council, as in defence or external affairs, communal domination is hardly possible.

\*The enumeration of these matters in the constitution act, though of no legal force, will remind the Federal and State authorities of what after all are the main purposes of government, transcending merely communal or sectional interests. Similar enumerations are becoming increasingly common in other constitutions. They have an educative value.

The Congress scheme, as outlined in its recent election manifesto, is for a Federation with autonomy for its constituent units. The Federation, it is said in the manifesto, must be a willing union of its various parts, and in order to give the maximum of freedom to the units there is to be a minimum list of common and essential federal subjects applying to all units and a further optional list of common subjects which may be accepted by such units as desire to do so. The implication here is that the Hindustan provinces will do so only on the compulsory list. What happens then if the federal legislature wishes to enact legislation on one of the optional subjects? The legislation can of course only be for the Hindustan provinces; but will the Pakistan members of the legislature vote on it? If they do, the position will be anomalous because Hindustan members have no corresponding voice in Pakistan legislation on that subject, the subject being provincial for Pakistan. The anomaly can only be avoided by a rule, whether self-imposed or imposed from outside, that in legislation of this character Pakistan members are not to participate. This is not very different from providing that the legislature may sit in parts, which is what has been suggested in the present scheme. Once, however, regional legislation is provided for, regional Cabinets are a logical corollary and hence this feature of the present scheme.

The scheme has, as already pointed out, certain inconveniences apart from its apparent novelty; but it has also several merits.

(1) It concedes Pakistan to the utmost extent possible under the conditions of the moment and gives the same status to the three groups of territories. The only respect in which the League can complain is that in the sphere of defence, external affairs, etc., the final decision will vest in the full Council. But, as already mentioned, there are three answers to this complaint:

- (a) The cost of defence, etc., even for Pakistan, will have to be met from the revenues of the rest of India, and those who pay the cost must be given their full voice in the decision;
- (b) in most of these essential matters the policy will be largely determined by international agreements to which India is a party so that there is little room for communal domination; and
- (c) by the nature of the composition of the Council and particularly after the establishment of statutory bodies like the Defence Council, domination by any particular community becomes almost impossible.

(2) It also agrees with the Congress plan foreshadowed in its election manifesto and merely carries it out to its logical conclusion. It does not, initially, go as far as "self-determination"; for, what does this phrase mean? It means that if an area desires complete separation and can be separated, consistently with this principle, the Congress would not object to its exclusion from the Federation. In other words, all legislation and all administration for that area, even in matters relating to defence and external affairs, would

vest exclusively in its own authorities. If we remember that the area in question is what we have called Group B, it will be seen that the present plan, initially at least, does not go as far as complete "self-determination", because in the "minimal" sphere of defence, etc., under the plan, all groups have to work together. If, however, separation is considered practicable and expedient at any time even in this essential sphere, all that has to be done is to modify the rules of business and abolish the special list of subjects referred to in the note under IV(3) above. In fact, by reducing or extending this list, the degree of separation of the groups can be increased or diminished according to the requirements of the time.

(3) If the plan is adopted, there is no necessity for revising the existing legislative lists; nor for revising provincial boundaries, even if any regrouping of territories of federal purposes becomes necessary; nor for delaying Federation until the accession of all or any Indian States. This, in itself, is a great saving of time.

(4) The plan gives a definite place to the Indian States and indicates how they are to be fitted in.

(5) It preserves India as a single entity for certain essential purposes while giving the maximum of autonomy to the provinces and the regions within the Federation.

(6) The scheme is elastic in that if after some time the regional Cabinets find that their regional differences are very few and far between, a unified administration according to subjects can be set up by merely altering the rules of business and by not exercising the option given to the legislature of sitting in parts.

(7) Within each group the Federation is as close knit as at present and can, if necessary, be made even closer. In other words, there will be a "strong" Centre so far as each group is concerned.

(8) By giving the maximum of opportunity to the regional Cabinets to meet and discuss matters of common interest, the plan will hasten the evolution of a unified administration for the whole of India.\*

\*In this connection the following extract from a speech in the House of Commons by Wilson Fox on the Government of Ireland Bill, 1920, is interesting :

"The essential difference between the conditions which preceded the establishment of the South African Union and the conditions that prevail in Ireland today was that before the negotiations took place which led to the establishment of the Union Parliament we had the provinces of South Africa, each of them governed by their own people, who exercised full responsibility of government. The result of the separation of these four provinces, crowded together into geographically narrow limits, made it necessary for the statesmen who governed those provinces to be constantly conferring with one another. There were a large number of matters of common interest, such as the native question, the railway question, customs, posts and telephones, diseases of men and animals, all of which had to be discussed and agreements had to be come to. The result was that the leading men of the various provinces came to spend a great

(9) The scheme answers a question which has hitherto not been answered—at any rate not in precise terms: what is to be done with the provinces or areas that reject the constitution framed by the constitution-making body?

(10) It may be possible to fit even Burma into the present scheme for purposes of defence, external affairs, tariffs and currency, without any radical alteration of the scheme. It would of course involve Burma's federation on these subjects and to that extent a change of its present constitution. This, however, is a matter which will require far more consideration, if it is to be pursued.\*

#### AN EXPLANATORY STATEMENT

The object of this statement is to outline a plan which will embody the greatest common measure of agreement yet reached between the two main political parties in India, while affording scope for further adjustment of differences.

For this purpose the following (Pakistan) resolution of the Muslim League at Lahore on March 23, 1940, furnishes a convenient starting point :

Resolved that it is the considered view of this session of the All-India Muslim League that no constitutional plan would be workable in this country or acceptable to the Muslims, unless it is designed on the following basic principles *viz.*, that geographically contiguous units are demarcated into regions which should be so constituted, with such territorial readjustments as may be necessary, that the areas in which the Muslims are numerically in a majority as in the North-Western and Eastern zones of India should be grouped to constitute 'Independent States' in which the constituent units shall be autonomous and sovereign.

That adequate, effective and mandatory safeguards should be specifically provided in the constitution for minorities in these units and in the regions for the protection of their religious, cultural, economic, political, administrative and other rights and interests in consultation with them and in other parts of India where the Muslims are in a minority adequate, effective and mandatory safeguards shall be specifically provided in the constitution for them and other minorities for the protection of their religious, cultural, economic political, administrative and other rights and interests in consultation with them.

deal of their time in meeting one another outside their own Parliament, discussing those questions and arriving at agreement and it is not in the least wonderful that they found that position of affairs became intolerable. They found these extra-Parliamentary conferences made such demands on their time and energies that almost any change would be to them welcome. That is really one of the chief reasons why in the end the representatives of the various provinces met together at a convention and agreed that they would then form, if they could, a Union of South Africa and when they asked for it, it was accorded to them."

\*Possibly Ceylon too in due course.

This session further authorises the Working Committee to frame a scheme for a constitution in accordance with these basic principles, providing for the assumption finally by the respective regions of all powers such as defence, external affairs, communications, customs and such other matters as may be necessary.

As interpreted by Mr. Jinnah (letter to Mr. Gandhi dated September 25, 1944) the contiguous units referred to in the Lahore resolution are Sind, Baluchistan, the North-West Frontier Province and the Panjab in the North-West and Bengal and Assam in the North-East. According to the resolution, these two regions, with necessary territorial adjustments, are to be "independent States in which the constituent units shall be autonomous and sovereign". The language used is loose; apparently what is meant is that the two regions should form a single independent State, Pakistan, of which the several provinces are to be constituent units (Mr. Jinnah's letter to Mr. Gandhi dated September 17, 1944). In other words, Pakistan is to be a Federation by itself. At present, the whole of British India is in a sense a single Federation; Mr. Jinnah seems to contemplate its division into two Federations, Pakistan and Hindustan, independent of each other. The Pakistan Federation would thus consist of two zones separated from each other by Hindustan territory; but this in itself is not a fatal objection to the scheme.

As to the particular areas to be included in Pakistan, Mr. Jinnah's proposal, as already mentioned, is that Pakistan should consist of all the six provinces named; but he has explained that this is "subject to territorial adjustments *that may be agreed upon*" and that "the matter of demarcating and defining the territories can be taken up after the fundamentals are accepted and for that purpose machinery may be set up by *agreement*".\* Later, he said in the same connection, at a Press Conference on October 4, 1944, that the question of demarcation could be taken up in the same way as a question of boundaries arising between two nations. He added that the two parties concerned could set up constitution-making bodies which would deal with the matter or that they might arrive at an agreement even before.

The first part of this last statement is not very clear, for constitution-making bodies cannot be set up until the areas which they are to represent have first been determined. Presumably, therefore, Mr. Jinnah's position is that the two parties concerned should arrive beforehand at an agreement regarding the boundaries or at least set up agreed machinery for the purpose.

Mr. Jinnah realises that although Pakistan and Hindustan may be independent States, there will have to be mutual relations between them on such matters as defence, external affairs, communications and customs. His position in this matter is "that it will be for the constitution-making body for Pakistan and that of Hindustan, or any other party concerned, to deal

\*Jinnah's letter to Gandhiji dated September 25, 1944: the italics are mine.

with such matters on the footing of their being two independent States".\* Again, in an interview granted by him to the representative of the *Daily Worker* on October 5, 1944, he said :

Certainly Pakistan will have neighbourly relations with Hindustan like any other independent national State. I have said so several times. We will say 'hands off India' to all outsiders. Pakistan will not tolerate any outside design or aggression on this sub-continent. We will observe something like the Monroe Doctrine.

What is or may be expected to be the Congress position on these questions? According to the Congress election manifesto prepared by the Central Election Board in December 1945, "the Federation of India must be a willing union of its various parts". It follows that if any part of India is not willing to come into the main Federation it is not to be forced to do so. Mr. Gandhi's proposal to Mr. Jinnah dated September 24, 1944, is even more specific :

The areas should be demarcated by a commission approved by the Congress and the League. The wishes of the inhabitants of the areas demarcated should be ascertained through the votes of the adult population of the areas or through some equivalent method. If the vote is in favour of separation, it shall be agreed that these areas shall form a separate State as soon as possible after India is free from foreign domination and can, therefore, be constituted into two sovereign independent States. There shall be a treaty of separation which should also provide for the efficient and satisfactory administration of foreign affairs, defence, internal communications, customs, commerce and the like, which must necessarily continue to be matters of common interest between the contracting parties. The treaty shall also contain terms for safeguarding the rights of minorities in the two States.

He repeated much the same thing in an interview to the representative of *The News Chronicle* on September 29, 1944 :

It was my suggestion that provided there was the safeguard of a plebiscite there could be sovereignty for the predominantly Muslim areas, but it should be accompanied by bonds of alliance between Hindustan and Pakistan. There should be a common policy and a working arrangement on foreign affairs, defence, communications and similar matters. This is manifestly vital to the welfare of both parts of India.

Mr. Jinnah appears to be opposed to a territorial plebiscite : "We claim the right of self-determination as a nation and not as a territorial unit."†

Putting together the various statements quoted above, we may fairly conclude that the Congress and the League agree that predominantly Muslim areas should, if they choose, form an independent sovereign State, Pakistan, distinct from Hindustan. They also agree that the two States should have a treaty or arrangement of some kind for such matters as defence, external affairs, communications and customs. They are not yet

\*Letter to Gandhiji dated September 23, 1944.

†Letter to Gandhiji dated September 21, 1944.



agreed as to the precise boundaries of Pakistan : Mr. Gandhi has suggested that they should be determined by a plebiscite ; Mr. Jinnah has not yet accepted the suggestion, but concedes that they must be determined by agreement or by agreed machinery.

They, of course, agree that whether in Pakistan or Hindustan, there must be adequate safeguards for minorities.

The concluding paragraph of the Lahore Resolution is important, particularly the words "providing for the assumption *finally* by the respective regions of all powers such as defence, etc.". The implication here appears to be that while the basic principle of separation must be accepted at once, there may have to be a transitional period before Pakistan and Hindustan can finally assume independent powers in such matters as defence, etc. Doubtless this transitional period is to be utilised by the two regions in negotiating treaties or agreements on these matters ; after these have been concluded, the separation is to be complete.

During the transitional period, while boundaries are being settled and the necessary agreements negotiated, the separation cannot be final or complete. What is to be the form of the Central Government in the meantime? Logically, it should be such as to carry out the principle of separation as far as possible, although, for the reasons already mentioned, it cannot yet be carried out completely.

So much for the Hindustan-Pakistan problem. The Indian States present a problem somewhat similar ; for, if India becomes an independent sovereign State and even more so, if it is split up into two independent sovereign States, the treaties, etc., which at present link the Princes to the Crown, will have to be replaced by appropriate treaties with the new government or governments. His Majesty's Government's view regarding the treaty position is that if a new State is formed out of parts of an old State, there is, generally speaking, no succession by the new State to the treaties of the old one. For example, upon the formation of the Republic of Finland at the end of World War I, the governments of the United Kingdom and Finland proceeded to study the treaty obligations previously existing between the United Kingdom and Russia and to conclude such new treaties as they considered to be necessary between themselves. A similar examination and revision of the treaties with Indian States will be necessary if India, whether united or divided, becomes an independent sovereignty. In particular, if India is split up into an independent Hindustan and an independent Pakistan, each Indian State will have to examine its treaty relations and decide in consultation with the Hindustan and Pakistan authorities which of the treaty relations should be renewed and with whom. Moreover, if Pakistan is separated from Hindustan, with only treaty relations connecting them in the matter of defence, etc., the Indian States can logically claim to remain separate from both, with revised treaty relations with one or the other or both. The Indian States, will, therefore, have to be given a position similar

to that of Pakistan, both in the ultimate and in the transitional structure.

To sum up, the ultimate structure should provide for a Hindustan Federation, a Pakistan Federation and the Indian States, after boundaries and mutual relations in respect of defence, external affairs, communications, customs and the like shall have been defined by agreement. Meanwhile, there should be a transitional structure which, while carrying out the principle of separation in other respects, must inevitably provide for a single Central Government in respect of the above matters.

Different patterns can be devised for the transitional structure, according to the degree or mode of separation desired. For the following, among other reasons, the transition to the ultimate structure may take a long time :

- (a) The difficulty of fixing the boundaries of Pakistan particularly if new States like Khalistan for the Sikhs are contemplated.
- (b) The complexity of the task of negotiating or revising agreements between a multitude of units on a number of thorny subjects.
- (c) The very fact that the door to complete separation is always open.
- (d) The possible growth of a feeling that in matters like defence, external affairs and finance, which affect India's security, India's voice in international councils and India's financial credit in the world, separation may be detrimental to the interests of each of the separated parts.

Hence the importance of devising the transitional structure in such a way as to satisfy not only India's desire for independence but also the sentiment behind Pakistan and the reasonable claims of the Princes and the minorities.

The details of the transitional structure as well as of the ultimate structure must necessarily be left to Indian hands, His Majesty's Government merely prescribing a broad framework. The details of the ultimate structure can hardly be filled in at this stage: that will require boundaries, etc., to be settled first and may ultimately involve the convoking of two constitution-making bodies. It will not be possible to set up two such bodies just now, because we do not yet know the precise areas they are to represent, large tracts being still in dispute between Hindustan and Pakistan. Only the details of the transitional structure can be determined now or in the near future. By what process they should be determined is a question which may well be left to the new Central Government that is proposed to be formed soon. The quickest method may be for this new government to appoint a special committee for the purpose; the draft constitution framed by the committee may then be sent round to the provinces for criticism and revised, if necessary, in the light of the comments received; the revised draft if approved by the new government, may be sent to His Majesty's Government for parliamentary legislation; or the new government may itself arrange for a constitution-making body. Thus the vexed question of one constitution-making body or two constitution-making bodies—or none at all—need not be decided by His Majesty's Government.

The formation of a new Central Government is a necessary step in the above plan. Since the broad framework which His Majesty's Government is to prescribe concedes the principle of Pakistan—a principle which the Muslim League demands and which the Congress appears, in effect, to accept in its election manifesto—the main obstacle to the setting up of the new government should disappear.

An example of the kind of framework which His Majesty's Government may prescribe after consulting all parties is appended to this memorandum. It has some obvious defects and is not meant to be anything more than illustrative.

## APPENDIX

### ULTIMATE STRUCTURE

1. On and from a date to be specified as hereinafter provided, India shall be a Commonwealth consisting of :

- (a) the Hindustan Federation
- (b) the Pakistan Federation
- (c) the Indian States and tribal areas.

2. Each of the Federations shall be an independent sovereign State whose boundaries and whose relations with the other members of the Commonwealth in regard to matters of mutual interest such as defence, external affairs, communications and customs shall have been previously defined by agreement or with the aid of agreed machinery as hereinafter provided.

3. As soon as possible after boundaries and mutual relations have been defined as aforesaid, and detailed constitutions have been framed for each of the two Federations, His Majesty may, by an Order-in-Council, establish the Indian Commonwealth with two independent Federations on and from a date to be specified therein.

### MEMORANDUM I

1. As from the date of commencement of this constitution, India shall be an independent sovereign Union.

2. (1) The territories of the Union shall be in the following groups :

- A. the Central Group, comprising the provinces of Madras, Bombay, the United Provinces, Bihar, the Central Provinces and Berar, Orissa, Delhi, Ajmer-Merwara, Coorg, and Panth Piploda.
- B. the Western Group, comprising the provinces of the Punjab, the North-West Frontier, Sind and British Baluchistan.
- C. the Eastern Group, comprising the provinces of Bengal, Assam and the Andaman and Nicobar Islands in the east.
- D. the Indian States and Tribal Areas.

(2) At any time after the first general election held under this constitution, the representatives of any provinces or part-province (as hereinafter defined) in the provincial legislative assembly may by resolution decide that the province or part province, as the case may be, be transferred from one group to another and the resolution shall take effect accordingly.

3. (1) There shall be a Union Parliament consisting of the Head of the Union and a single Chamber to which Group A on the one hand and Groups B and C, on the other, shall send an equal number of representatives.

(2) Pending the formal accession of a prescribed number of Indian States, Group D shall not have any representatives in the Union Parliament.

(3) Indian States will accede as and when the Rulers desire and upon such terms as may be agreed upon between the Union and the Ruler concerned.

*Note :* The parity granted to groups A and B in this Article and in Article 8 and the election of the ministers of each group by the representatives of that group in the legislature, as prescribed in Article 9, should go some way towards satisfying the sentiment behind the Pakistan demand.

4. The legislative authority of the Union Parliament shall extend only to Groups A, B and C and in Governors' Provinces only to matters relating to defence, external affairs, communications, and the requisite finances.\*

5. The executive authority of the Union shall be co-extensive with its legislative authority in relation to Groups A, B and C and shall, subject to the provisions of Article 6 below, extend to all the functions exercisable by the Crown under the Act of 1935 in relation to Group D.

6. In the exercise of its executive authority in relation to Group D, the Union shall have due regard to the following principles :

(1) The territorial integrity of the States and the dynastic succession of the Rulers must be preserved.

(2) Treaty rights and obligations must be honoured.

(3) The internal sovereignty of the Rulers must be respected :

Provided that nothing herein contained shall be deemed to affect the evolution of responsible government in the States.

*Note :* The Princes may demand some such safeguards.

7. The executive authority of the Union shall be exercised by the Head of the Union and there shall be a Council of Ministers to aid and advise him in the exercise of his functions.

8. The Council shall consist of

x ministers for Group A

x ministers for Groups B and C taken together and

y ministers for Group D

9. (1) The ministers for Group A shall be elected, for the term of each Parliament, by the representatives of the group in that Parliament on the Swiss plan, and similarly the ministers for Groups B and C.

(2) Pending the admission of members from Group D to the Union Parliament, the ministers for that group shall be selected in the following manner :

The Chancellor of the Chamber of Princes shall after consulting the Committee of States' Ministers submit a panel of z names to the Head of the Union and from this panel, the Head of the Union shall select y names upon the advice of the ministers for Groups A, B and C.

*Note :* This plan ensures stability for the ministry, representation in the ministry for important minorities, and a sufficient measure of responsibility of the ministry to the legislature.

10. The allocation of portfolios shall be made by the Head of the Union after consulting the ministers of all four groups.

*Note :* The allocation may be periodically varied so as to avoid complaints of

\*The detailed items to be included under each of these heads can be indicated in a schedule, if necessary.

discrimination as between the groups: *e.g.*, for the first four years, finance may be assigned to a minister of Group A and for the next four years, to a minister of Group B or C or *vice versa*. The justification for bringing Group D into this distribution is that all States have already ceded jurisdiction to the Crown in respect of defence and external affairs and many of them have further limited their jurisdiction by agreements in respect of railways, posts and telegraphs, customs, etc. The States are therefore affected by British Indian policy in all these matters and can reasonably claim a voice in the shaping of that policy. They can obtain such a voice only by being represented in the Central Cabinet. If necessary, a rule of business may be made that the ministers of Group D shall not *vote* at Cabinet meetings, but will have a right to attend and speak.

11. Subjects outside defence, external affairs, communications and the requisite finances shall be transferred to the Governors' Provinces.

*Note* : Provincial subjects in the Chief Commissioner's Provinces will still have to be administered by the Centre: they may be included in the portfolio of one of the ministers for Groups A, B or C according to the situation of the province.

#### MEMORANDUM II

This memorandum is intended to be supplementary to, and to be read along with, memorandum I.

The principle of parity between Group A on the one hand and Groups B and C, on the other, adopted in memorandum I may at first sight seem unfair to Group A in view of its larger size and population. But parity in some form between the two main communities in India is the price of a single Centre. For this purpose some have suggested Muslim-Caste Hindu parity; others League-Congress parity; but territorial parity of the kind proposed in memorandum I seems to be less open to objection than either. For one thing, the advocates of Pakistan will feel some satisfaction that territorially it is to be on a par with Hindustan. Moreover, there are well known precedents for territorial parity; *e.g.*, in the Austro-Hungarian "Delegations" under the *Ausgleich* of 1867 which worked for nearly 50 years; in the Council of Ireland provided for in the Government of Ireland Act, 1920; and in the Upper Chambers of Federal States. Again, the advocates of a common Centre have often spoken of fair and even generous treatment of minorities as a necessary concession: parity for Groups B and C with Group A ensures this not only for Muslims but also for Sikhs. Finally, the Frontier regions (Groups B and C) are more liable to suffer from external attack than the Central region (Group A) and may therefore be given an equal voice in a Centre mainly concerned with defence and external affairs.

There are some obvious defects in the framework suggested in memorandum I. One of the most obvious is that a Centre dealing only with defence, external affairs, communications and finance is much "weaker" than the present Centre. For example, the development of selected industries is at present a Central subject and it is likely to be a highly important subject in the near future; but it falls outside the above group of four and therefore outside the purview of the projected Centre. This defect can be remedied by a slight modification of the original plan: let the subject continue to be Central, but let it be dealt with so far as Group A is concerned by a Minister of the Interior or Home Minister for that group; and so far as Group B is concerned by a similar minister for Group B. So too for Group C. Thus, parity between the groups is preserved and there is no fear of domination of Pakistan by Hindustan, although the subject in question becomes Central. If the industry in question is jute or tea—these are all Group C products—the subject will be dealt

with by the Home Minister for Group C; similarly, if it is a Group A industry, it will be dealt with by the Home Minister for Group A.

By way of a rough analogy, it may be pointed out that in the United Kingdom there is a single Cabinet; but not all the ministers exercise their functions uniformly in the different parts of the Kingdom. For what may be called national purposes (Army, Navy, Air Force, Foreign Relations, Treasury, etc.), there are common ministers for all parts; but for other purposes there are special ministers for special regions. Thus, the functions of the Home Secretary and of certain other ministers are more or less limited to England and Wales, the corresponding functions for Scotland being discharged by the Secretary of State for Scotland. Then there are special ministers for territories which are not part of the United Kingdom but in relation to which the Crown has special functions to discharge: *e.g.*, the Secretary of State for India, the Secretary of State for the Colonies and so on. What has been suggested in this memorandum is an adaptation of this idea to Indian conditions.

If this modification of the original plan is accepted, we need not touch the existing distribution of Central and provincial functions. The Centre may be just as strong as at present (and can indeed be made stronger if such additional Central subjects as are considered necessary are dealt with by different ministers for the different groups); and we also avoid the necessity for any re-adaptation of existing laws. This will be a great saving of time in drafting the constitution for the transitional period.

SECRETARY OF STATE FOR INDIA'S  
ANNOUNCEMENT REGARDING  
DESPATCH OF CABINET  
MISSION TO INDIA  
February 1946

*[On February 19, 1946, Pethick-Lawrence, Secretary of State for India, made a statement in the House of Lords announcing His Majesty's Government's decision to send out to India a special mission of Cabinet Ministers, consisting of himself, Stafford Cripps and A. V. Alexander, to hold discussions with Indian leaders with a view to the early realization of full self-government in India. The text of the statement is reproduced below.]*

THE HOUSE WILL recall that on 19 September 1945, on his return to India after discussions with the British Government, the Viceroy made a statement of policy in the course of which he outlined the positive steps to be taken immediately after the Central and Provincial elections to promote, in conjunction with leaders of Indian opinion, early realization of full self-government in India.

Those steps include : first, preparatory discussions with elected representatives of British India and with Indian States in order to secure the widest measure of agreement as to the method of framing a constitution ; second, the setting up of a constitution-making body ; and third, the bringing into being of an Executive Council having the support of the main Indian parties.

Elections at the Centre were held at the end of last year and in some of the Provinces they are also over and responsible Governments are in the process of formation. In other Provinces polling dates are spread over the next few weeks. With the approach of the end of the electoral campaign, the British Government have been considering the most fruitful method of giving effect to the programme to which I have referred.

In view of the paramount importance, not only to India and to the British Commonwealth but to the peace of the world, of a successful outcome of discussions with leaders of Indian opinion, the British Government have decided with the approval of His Majesty the King to send out to India a special mission of Cabinet Ministers consisting of the Secretary of State

for India (Lord Pethick-Lawrence), the President of the Board of Trade (Sir Stafford Cripps) and the First Lord of the Admiralty (Mr. A. V. Alexander) to act in association with the Viceroy in this matter.



STAFFORD CRIPPS' STATEMENT AT THE  
PRESS CONFERENCE REGARDING THE  
TASK AND THE APPROACH OF THE  
CABINET MISSION  
April 1946

*[The Cabinet Mission (see Document No. 45) arrived in India on March 23, 1946. During the first week of their stay in India, the Mission held preliminary discussions with the Viceroy, members of his Executive Council and the Governors of the Provinces. On April 1, at a press conference held in New Delhi, Stafford Cripps observed that the Mission had not come to India with any ready-made scheme for the solution of the Indian problem. He affirmed that the independence of India had already been decided upon and was no longer an issue. However, since differences existed in India as to the precise way in which this objective could be achieved, the duty of the Mission, as he saw it, was to do all that they could to help different sections of thought in India in arriving at an agreement for a new constitutional structure. He agreed that the question of the formation of a new interim Government was linked with the question of the constitution-making machinery, and also gave the conference some indication of the Mission's further programme. The relevant extracts from the proceedings of the press conference are reproduced below.]*

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OF COURSE THERE IS not the slightest doubt that everybody in this country today, not only in India but you may say all over the world are very anxious to get all the news they possibly can about the momentous events that are proceeding at the present time in New Delhi. It is very much the centre of world interest. I very much hope that all of you will realise that it would not assist them, those people who are eager for news and information, merely to get facts and opinions which are invented by fertile brains of other people in order to maintain the tension and excitement of the events. I certainly think that it won't help those who are on all sides today labouring for the good of the future of India. I hope too that you will be able to restrain your great ingenuity of interpretation of words and phrases—I

have had some little practice at that myself in other places.

Now there is one line of criticism that has a little surprised me. In view of my own past experience of this criticism, that we have not been prepared to disclose what is referred to as our scheme and that because we do not disclose it we must therefore have some sinister intentions in not disclosing it. You remember, perhaps some of you, the criticism that I met with on a former occasion for having come out here with a cut and dried scheme which I was seeking, it was said, to impose upon India. These two criticisms cannot very well go side by side. They are rather contradictory, the one of the other, and we decided on this occasion that we definitely would not work out any scheme at all in advance, but that we would try and do our utmost to assist the various responsible elements to arrive at some agreement suitable and convenient to themselves. We really have no scheme with us, either on paper or in our heads. So its non-disclosure means nothing except that it is not there. And I hope that that will be quite clear to everybody.

As we see the situation, once independence has been decided upon, as of course it has been, as will be seen from the announcements, it is our duty—I am referring to the Mission that is here—it is our duty to do all that we can to help in arriving at an agreement for a new constitutional structure, for the guarantee of which when it is formed and is in operation we shall have no responsibility, because we shall be withdrawing from the scene of Indian Government entirely when that new constitutional structure is functioning.

I think that nothing could be more important to the long, and I am sure illustrious, future of the Indian People than that that new constitutional structure should be launched with the maximum of agreement and goodwill on all sides, and that I believe is where the Press can come in and play a very real part. Of course if every kind of difference of view and outlook is, to use a colloquial English phrase “hotted up”, and intensified to the verge of revolutionary ardour, it is clear that instead of getting agreement and co-operation we shall get hostility and the worst possible conditions will be created for the launching of the new constitutional structure. We of course, again speaking as a Mission, do not in the least mind what you say about us. You have been very kind and I am sure you will go on being very kind because we shall be leaving India to her independence but we are most anxious that the greatest possible chance of agreement between all the various persons concerned as to the future should be given to those on all sides who are working, and I am quite certain, sincerely and honestly, however different their views may be, to attain the best interests of this country. Indian leaders, as one knows from many associations with them, are great statesmen and diplomats and I am sure you will agree that it is much better to give them a free and fair chance to settle these difficult problems we have got to face one with another and with our help if we can assist in any way rather than stimulate them to disagreement by violent

and very partisan assertions. I do feel very deeply and sincerely that none of us here can possibly overrate the gravity of the decisions that have got to be made within the next two or three weeks. And of course correspondingly we all carry a heavy responsibility not to try and accentuate the difficulties within which those agreements will have to be arrived at.

And I am sure again you will agree with me that the more we, the Mission, and you with your power in the Press can concentrate on constructive ideas of common action rather than on destructive ideas of individual or theoretical differences, the better we are likely to achieve the aim of all of us which is the most rapid coming into operation of the new constitutional structure in a good and friendly atmosphere. Acting as, to use a very familiar phrase "a friendly alien", and I hope you will realise also a very sincere well-wisher, I venture to make these few suggestions to you because I feel personally so deeply impressed by the enormous potential for good or ill that you hold in your hands during these coming days and weeks. A wide and dispassionate statement of views, however diverse, will be helpful because we naturally, like others, want to see every side of the picture and a strong insistence on these views certainly is no embarrassment to any one provided we can avoid stirring up antagonisms and personal differences which certainly do militate against the settlement of any problem by agreement. I should like to thank a great many of you who are here today for the way in which you have responded to Lord Pethick-Lawrence's appeal for restraint in this matter when you met him just a week ago today. I hope you will maintain that extremely happy and useful attitude during the rest of the negotiations.

With these few introductory remarks which I wanted to get off my chest, for they have been there for some days, I would like to say a few words to you about the way in which things are proceeding.

During the last week, as you know, we had discussions with the Viceroy, the Executive Council and the Governors. And I do not think you can always take as exactly reliable all the reports which may have appeared on these conversations. We found them extremely useful. We were able to get many different points of view which will all help to formulate in our minds the more precisely the actual key problems which have got to be met and solved.

Now this week we are embarking on a series of what I think can best be described as exploratory discussions; first of all with the elected representatives, Prime Ministers and leaders of opposition in the various Provincial Governments. We have seen two of them today and those meetings will proceed until we have gone round, I hope, all the principal persons and interests who should be consulted on a matter of this kind. And when that first exploratory round has been completed then we shall expect to get down to rather closer discussions with the principal elements who seem to us to be the most important factors in arriving at the agreement that we

are hoping may come. We shall of course during the course of these coming days hope to meet informally a great number of people of different views and different opinions, many of whom are old personal friends of ours with whom we want to renew our acquaintance not on formal terms but on those terms of pleasing friendship and informality to which some of us have been accustomed in the past. As you know, I did pay such a visit to Mr. Jinnah who for so many years was a fellow lawyer with me in London. Both of us were practising before the Privy Council. I hope to see Mr. Gandhi immediately on his arrival in New Delhi. I think his arrival is just taking place or is just about to take place.

And other persons also we hope to contact in that way. Tomorrow actually we hope to see Sir Tej Bahadur Sapru who unfortunately is not at all well and so the three Ministers and the Viceroy are going to call on him at his house where he is in order that he may not be put to any inconvenience in coming to see us. These visits I hope will enable all of us to get an even greater measure of appreciation of the crucial points that have got to be decided in the course of these conversations and therefore you will naturally observe from what I have told you that we are not likely to have any information of importance which we can communicate to you for some considerable time. We are anxious in so serious a situation—serious because of the great issues involved—not to deal with it lightly and not to deal with it too hurriedly in order that the opportunities which lie before us may be suitably developed. I hope that this afternoon you won't try and get me to give any interpretation of anything that anybody else has said, *(Laughter.)* I am too old a lawyer to be caught out by that one. *(Laughter.)*

Now if I can in any way help to ease or calm your minds on troubled points, I am here.

*Q.* You said crucial points. What are the crucial points referred to?

*A.* I have said that is what we would try to discover during the next few days.

*Q.* Have you so far issued any invitation to the representatives of Nationalist Muslims?

*A.* No. They have not gone yet. They are going.

*Q.* Have you issued invitations to the Communist Leaders?

*A.* They are also going.

*Q.* Is there any intention of sending for the representatives of People's Organisations in the Indian States?

*A.* That also is under consideration at the moment.

*Q.* Last week you invited the Executive Councillors. It has been stated that they are not the representatives of the people. What is the use of seeing them?

*A.* They are the Government of India and it is courtesy, when you go to a country, to meet members of the Government. Most of them are Indians and they all have views.

- Q. According to a report in the Press on the debate in the Council of State on Finance Bill Sir Mohammad Usman referred to the British Cabinet Mission. He seems to have explained what he told you in his discussions.....?
- A. It is better not to take so much notice of everything that appears in the Press.
- Q. Are you going to take the Viceroy as one of the members of the Mission?
- A. The Viceroy is a full member of the Delegation.
- Q. Why have you not invited leaders of opposition in the Council of State?
- A. The reason is that we have not invited because we think we have got as many people as we can possibly see and we want to get to an end one day.
- Q. If the Government wishes as is said that the Indian people should determine their own future, are they prepared to agree to the only recognised democratic means for this purpose, that is a sovereign Constituent Assembly based on universal suffrage?
- A. The question of the way in which the Constituent Assembly should be formed is primarily a matter for the Indian people and we hope that in the course of the discussions, they will rather arrive at an agreement as to how it should be done or at least get very near to it, but at present we are anxious to hear their views.
- Q. As a supplementary to this may I ask how the Indian people can express their wish unless they have an opportunity to vote, but I will come out with the second question. Will the negotiations on the future of the Indian people be negotiations between equal sovereign representatives or between master and servant with the final deciding power in British hands?
- A. We do not imagine that there is any final deciding power as regards future constitutional structure, because it will be in the hands of the Indian people.
- Q. Will the settlement include as a part of the settlement, the withdrawal of British military forces or will military power after the settlement, in fact, remain in British hands whatever the degree of full independence may be conceded?
- A. Clearly it would be quite inconsistent with any idea of independence for foreign troops to remain in any country, except by agreement.
- Q. Has the Mission given any encouragement to the Executive Councillors during their discussions with them that they will not be disturbed until a final settlement is reached with regard to the constitution-making body?
- A. None at all.
- Q. You remember last time the Secretary of State said in reply to a question which was asked regarding Indian States that why should Indian

States Representatives not be Representatives of People rather than of the Princes and the reply was that we shall have to take the structure of the existing India as it is at the moment. At the same time, you were good enough to say that you could not decide whether there would be one of two constitution-making bodies. These two replies are rather inconsistent, because while you were assuming according to the Secretary of State that the present structure would have to be taken as it is for the Indian States you were also assuming in your answer that the present structure of the whole of India could be ignored and you could possibly have assumed on a different basis. I would like to know whether the view of the Secretary of State applies to India as it is.

A. That question is too complicated for me to understand.

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Q. If we have taken it down correctly, Sir, you said "We have no scheme on paper, nor in our heads and nothing in our minds".

A. Not that "We have nothing in our minds". We have no scheme either on paper or in our heads, and therefore its non-disclosure merely means that there is no scheme.

Q. When you say it is not, how is it that an air of secret diplomacy is surrounding the talks of the Mission and you might remember that Mr. Bevin was the man to rave against the secret diplomacy as far as Russia and its negotiations with Iran and other countries were concerned?

A. We do not believe that talks would be of equal value if they were to be held here with all this pleasant company present.

Q. You could give some terms of reference. If you think that you are so frank, you could take the Press and public in confidence and give us the terms of reference at least.

A. We told you exactly what we are here for, we cannot tell you any more.

Q. Don't you think it is very difficult to negotiate if you don't have anything in the head?

A. We are not trying to negotiate an agreement between us and India. We are trying to negotiate an agreement between different sections of thought in India.

Q. Is not the British Government a party to the negotiations?

A. Certainly. A party. And as I hope a helpful and co-operating party trying to get a decision from the Indian people as to what they want to do.

Q. Is not Britain the adjudicating Power?

A. I should not think so.

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- Q. The Secretary of State said the other day independence is already there, and that it is not the issue at all. Where is the independence?
- A. It is not an issue any longer. All we are trying to discover is to see how quickly to get it. Everybody does not agree.
- Q. There is no difference of opinion in this country with regard to independence.
- A. There is a great deal of difference of opinion as to how we should set about it at the moment.
- Q. Will it not be desirable to make another declaration on independence and then proceed to settle details?
- A. I do not think personally formal declarations are much good until you do a thing.
- Q. Irrespective of an agreement on a new constitutional structure to make India independent, are there any implications of a determination to make India independent? There are many things the British Government can do unilaterally without any agreement among the Parties.
- A. That is one of the problems that we are dealing with now, which is how as rapidly as possible to achieve independence.
- Q. The constitutional structure I admit is the most important thing. So far as you are concerned, you have determined to make India independent. But there are many implications on which we do not have any clear ideas.
- A. No doubt you will in due course see that these are matters which we are finding out in the course of our discussions.

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- Q. As a layman I want to ask; Independence is there. You have declared that India will be given independence. How many times you have been trying it through the same leaders? As a layman I may say they will never agree. If they do not agree, have you got any formula to give independence by stages?
- A. I hope by the time we have had all the discussions, there will be agreement. If there is no agreement, we shall then formulate something in our own minds.
- Q. The question of the release of political prisoners was discussed last time. And you have since had discussions with Governors and Executive Councillors. Have you arrived at any decision? Or do they still remain behind bars?
- A. No final decision has yet been arrived at on this question.
- Q. May I remind you that there are reports that the Congress Ministries when they resume power in the Provinces may persecute political minorities. Will you see to it that in the declaration that you make some sort of assurance for civil liberties will be made for the political minorities?

- A. I am quite sure that political minorities, whether Hindus in Muslim Provinces, or Muslims in Hindu Provinces, nobody is going to persecute them one way or other.
- Q. I mean political minorities ; not communal minorities.
- A. I think there can be no question of persecution of political minorities either.
- Q. You are only burking the issue. Will you make some sort of announcement guaranteeing civil liberty?
- A. That is not for us to do. That will be for the new constitution. If more guarantees are required for civil liberties the right place to find them is in the new constitutional structure of India.
- Q. That is a basic guarantee ; that has been given even to Germans and the Japanese.
- A. The Germans and the Japanese are conquered territories on which the conquerors imposed certain terms. This is a case where Indian people are going to work out their own new constitution and there they will no doubt put into it whatever they think is necessary as regards constitutional guarantees or civil liberties as other States do when they work out their constitutions.
- Q. Is it essential for every country to have that guarantee?
- A. Certainly, I am sure it will appear in any new constitutional structure.
- Q. The majority in this country sometimes wants statutory protection.
- A. Yes. As sometimes in England against the Scotsmen.
- Q. If I got you right, a little while ago you said that you would like to have full agreement or as near agreement as possible on the question of a constitution-making body. If the Congress Party do not agree, would you consider it nearing?
- A. It has almost answered itself. No. Not if they were a very long way apart. The nearness of agreement does not depend on a number of parties. It depends on how close they come to agreement.
- Q. Are you thinking of issuing anything on the Queen Victoria Proclamation?
- A. I am not thinking today in terms of Queen Victoria at all.
- Q. Is the constitution of the interim Government very much dependent on the final agreement about the constitution-making machinery being evolved?
- A. That is of course a question which you should address to the various Indian personages who are concerned in this matter, as to whether formation of a new interim Government is linked up with the question of the ultimate solution of the constitutional question. The degree of that linkage and how essential it is a matter for the Indian parties to either agree upon or to express their views on.
- Q. But it is not a question which is entirely independent.
- A. Obviously, the two questions are inter-linked, with the degree, the



- firmness of the linkage between them may be a matter of considerable difference of opinion amongst different people.
- Q. Are you inviting representatives of the Hindu Mahasabha?
- A. The answer is yes.
- Q. I take it, Sir Stafford, that you are here as a Mission for the solution of a problem for which you recognised Britain has a very definite responsibility, that is, whatever difficulties we face today Britain had a hand in their creation. Now the question is this. If you fail to bring about a settlement by agreement, do you envisage international arbitration in some circumstances or other?
- A. Well, that might be one of the good ways of solving the problem.
- Q. Will the principle of full repayment of sterling debt be recognised in the economic and financial settlement which will have to accompany the political settlement?
- A. The question of all financial and economic matters will be dealt with between the free Government of India and the free Government of Great Britain when that time comes.

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- Q. Will the Cabinet Mission go into the future of French and Portuguese possessions in India by inviting representatives to discuss this?
- A. Not at this stage.
- Q. Can you please give an assurance that the Government will not repeat the blunder which it committed in Simla of giving the veto in the hands of Mr. Jinnah?
- A. I am not going to answer a question which is based on a hypothesis with which I am not wholly in agreement.
- Q. Has Congress demanded any assurance on the subject?
- A. We have not met them yet.
- Q. Does the Cabinet Mission contemplate re-distribution of boundaries between Provinces and States and also create new Provinces on political, religious, economic, linguistic or administrative considerations and if so which Provinces and States are likely to be affected?
- A. Of course, every body obviously can see that one of the questions that might come up will be the re-distribution of boundaries. That is a matter which we shall no doubt explore with those people we are seeing.
- Q. Can the States have the option of remaining outside the proposed Federation without in any way jeopardising the working of the new Constituent Assembly and the interim and final arrangements?
- A. They are all points which we shall be discussing and exploring with representatives we are seeing and it will be quite idle for us to go

into these exploratory talks if we made up our minds about all these points beforehand.

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- Q. Within your instructions can you evolve a plan on Indian soil and commit the British Government to it?
- A. That might possibly depend upon the formation of the plan. We have very wide powers of decision. But there might arise a point on which we might like to consult the British Cabinet. If so we should do so by telegram.
- Q. To what extent are you goaded or prompted by international events? Is it purely a question of a desire for solution of your own volition without any consideration of international events?
- A. If international events include the state of opinion in India, then we are certainly influenced by international events. But if you are meaning that because of the action of some foreign country we are being prompted to take a certain line, then you will be quite wrong. We are not prompted by the action of any foreign country. We are prompted by the interests of India.

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- Q. The Constituent Assembly, which is to be summoned will, when that body meets, be a sovereign body?
- A. Yes, I presume. I cannot imagine any Constituent Assembly which is not sovereign, or there would be no point in having it. But whether there should be one or two, and how they can meet is a matter that we hope will be for agreement.
- Q. Can a constituent body meet when there are foreign troops in the country?
- A. I think it is quite possible. It has happened on very many occasions in the past and I do not see why it should not happen in the future.
- Q. What is your attitude today with regard to the pledge given to minorities in India by Lord Linlithgow in August 1940 according to which a pledge was given that they would not be coerced to submit to the authority of a Government whom they did not recognise?
- A. As in everything else, the importance of minorities, their position and their influence may well have changed in the last five or six years, and that may change the application of any such statement that was made in the past. We really want to start this thing on a fresh basis. If we start going back to interpret everything that has been said from Queen Victoria down to today I think we will get into an awful muddle. The best way of approach is: We want to give independence to India as quickly and smoothly as we can. Let us sit down together

and see how we can arrange it, rather than trying to analyse past statements, some of which indeed, might be found to be contradictory. if they were fully analysed.

Q. Are you going to write on a clean slate?

A. I hope so.

Q. You do not want to go back on promises?

A. Nobody wants to go back on promises given.

CORRESPONDENCE AND OTHER DOCUMENTS  
CONNECTED WITH THE CONFERENCE BETWEEN  
THE CABINET MISSION AND REPRESENTATIVES OF  
THE CONGRESS AND THE MUSLIM LEAGUE AT  
SIMLA

April-May 1946

*[In April 1946, the Cabinet Mission had their first round of interviews with representatives of various political parties, communities and groups. They found that the main difficulty in evolving an agreed solution lay in the fact that the two principal parties in India, the Indian National Congress and the Muslim League, were sharply divided on fundamental issues. The Congress was pledged to a united India and wanted a single constitution-making body for the whole country; the Muslim League was committed to an independent sovereign Pakistan with its corollary of two constitution-making bodies one for Hindustan and one for Pakistan. After considerable discussion with them separately, the Mission decided, towards the close of April, to invite the two parties to send four representatives each to a conference at Simla. As a basis of negotiation, the Mission put forward a proposal for a 'three-tier' constitutional structure comprising: a Union Government dealing with foreign affairs, defence and communications; two groups of Provinces, one of the predominantly Hindu Provinces and the other of the predominantly Muslim Provinces, dealing with all other subjects which the Provinces in the respective groups desired to be dealt with in common, and Provincial Governments dealing with all other subjects and having residuary sovereign rights. The Congress and the League accepted the invitation without, of course, any commitment, and the conference began at Simla on May 5. As the discussions proceeded, the Congress and the League moved considerably from their initial standpoints and came closer to each other. However, differences on certain matters persisted and the conference came to an end in the second week of May without producing a final agreement. The Congress made it clear that it was opposed to grouping of Provinces, especially if it meant that, in the initial stage, a Province could be compelled to join a particular group. The League insisted on having a separate constitution-making body for the Muslim-majority Provinces. The correspondence and other documents connected with the Simla Conference are reproduced below.]*

*Soon after the termination of the Simla Conference, the Cabinet Mission announced on May 16, their own proposals for a 'speedy setting up of the new constitution' (see Document No. 48).]*

(i) LETTER FROM PETHICK-LAWRENCE TO ABUL KALAM AZAD,  
PRESIDENT OF THE CONGRESS, AND M. A. JINNAH, PRESIDENT OF  
THE MUSLIM LEAGUE

April 27, 1946

THE CABINET MISSION and His Excellency the Viceroy have carefully reviewed the opinions expressed to them by the various representatives they have interviewed and have come to the conclusion that they should make one further attempt to obtain agreement between the Muslim League and the Congress.

They realise that it would be useless to ask the two Parties to meet unless they were able to place before them a basis of negotiation which could lead to such an agreement.

I am therefore asked to invite the Muslim League to send four negotiators to meet the Cabinet Mission and the Viceroy together with a similar number from the Congress Working Committee with a view to discussing the possibility of agreement upon a scheme based upon the following fundamental principles :—

The future constitutional structure of British India to be as follows :—

A Union Government dealing with the following subjects :—

Foreign Affairs, Defence and Communications. There will be two groups of Provinces, the one of the predominantly Hindu Provinces and the other of the predominantly Muslim Provinces, dealing with all other subjects which the provinces in the respective groups desire to be dealt with in common. The Provincial Governments will deal with all other subjects and will have all the residuary Sovereign rights.

It is contemplated that the Indian States will take their appropriate place in this structure on terms to be negotiated with them.

I would point out that we do not think it either necessary or desirable further to elaborate these principles as all other matters could be dealt with in the course of the negotiations.

If the Muslim League and Congress are prepared to enter into negotiations on this basis, you will perhaps be so good as to let me know the names of the four people appointed to negotiate on their behalf. As soon as I receive these I will let you know the locus of the negotiations which will in all probability be in Simla, where the climate will be more temperate.

(II) LETTER FROM THE PRESIDENT OF THE CONGRESS TO  
PETHICK-LAWRENCE

April 28, 1946

I thank you for your letter of April 27th. I have consulted my colleagues of the Congress Working Committee in regard to the suggestion made by you, and they desire me to inform you that they have always been willing to discuss fully any matters concerning the future of India with representatives of the Muslim League or any other organisation. I must point out, however, that the "fundamental principles" which you mention require amplification and elucidation in order to avoid any misunderstanding.

As you are aware, we have envisaged a Federal Union of autonomous units. Such a Federal Union must of necessity deal with certain essential subjects of which defence and its allied subjects are the most important. It must be organic and must have both an executive and legislative machinery as well as the finance relating to these subjects and the power to raise revenues for these purposes in its own right. Without these functions and powers it would be weak and disjointed and defence and progress in general would suffer. Thus among the common subjects in addition to Foreign Affairs, Defence and Communications, there should be Currency, Customs, Tariffs and such other subjects as may be found on closer scrutiny to be intimately allied to them.

Your reference to two groups of Provinces, the one of the predominantly Hindu Provinces and the other of the predominantly Muslim Provinces, is not clear. The only predominantly Muslim Provinces are the North-West Frontier Province, Sind and Baluchistan. Bengal and Punjab have a bare Muslim majority. We consider it wrong to form groups of Provinces under the Federal Union and more so on religious or communal basis. It also appears that you leave no choice to a Province in the matter of joining or not joining a group. It is by no means certain that a Province as constituted would like to join any particular group. In any event it would be wholly wrong to compel a Province to function against its own wish. While we agree to the Provinces having full powers in regard to all remaining subjects as well as the residuary powers, we have also stated that it should be open to any Province to exercise its option to have more common subjects with the Federal Union. Any sub-federation within the Federal Union would weaken the Federal Centre and would be otherwise wrong. We do not, therefore, favour any such development.

Regarding the Indian States we should like to make it clear that we consider it essential that they should be parts of the Federal Union in regard to the common subjects mentioned above. The manner of their coming into the Union can be considered fully later.

You have referred to certain "fundamental principles" but there is no mention of the basic issue before us, that is, Indian independence and the

consequent withdrawal of the British army from India. It is only on this basis that we can discuss the future of India, or any interim arrangement.

While we are ready to carry on negotiations with any party as to the future of India, we must state our convictions that reality will be absent from any negotiations whilst an outside ruling power still exists in India.

I have asked three of my colleagues of the Congress Working Committee, namely, Pandit Jawaharlal Nehru, Sardar Vallabhbhai Patel and Khan Abdul Gaffar Khan to accompany me in any negotiations that may take place as a result of your suggestion.

(III) LETTER FROM THE PRESIDENT OF THE MUSLIM LEAGUE  
TO PETHICK-LAWRENCE  
April 29, 1946

I thank you for your letter of the 27th April, which I placed before my Working Committee yesterday morning.

My colleagues and I fully appreciate the further attempt that the Cabinet Mission and His Excellency the Viceroy are making to bring about an agreement between the Muslim League and the Congress by proposing a meeting of the representatives of the two organisations for the purpose of negotiating an agreement. They, however, desire me to invite your attention to the position taken up by the Muslim League since the passing of the Lahore Resolution in 1940 and, thereafter, successively endorsed by the All-India Muslim League Sessions and again by the Convention of the Muslim League Legislators, as recently as the 9th of April 1946, as per copy enclosed.

The Working Committee desire to point out that many important matters, both of principle and detail, in your brief letter, require elucidation and clarification, which, in their opinion, can be achieved at the meeting proposed by you.

Therefore, without prejudice or commitment, the Working Committee, in their anxiety to assist in finding an agreed solution of the Indian constitutional problem, have authorised me to nominate three representatives on behalf of the Muslim League to participate in the negotiations.

The following are the four names : 1. Mr. M. A. Jinnah, 2. Nawab Mohammad Ismail Khan, 3. Nawabzada Liaquat Ali Khan and 4. Sardar Abdul Rab Nishtar.

ENCLOSURE

RESOLUTION, PASSED BY THE SUBJECTS COMMITTEE, TO BE PLACED BEFORE THE  
ALL-INDIA MUSLIM LEAGUE LEGISLATORS' CONVENTION ON APRIL 9, 1946

Whereas in this vast sub-continent of India a hundred million Muslims are the adherents of a Faith which regulates every department of their life (educational,

social, economic and political), whose code is not confined merely to spiritual doctrines and tenets or rituals and ceremonies and which stands in sharp contrast to the exclusive nature of Hindu Dharma and Philosophy which has fostered and maintained for thousands of years a rigid Caste System resulting in the degradation of 60 million human beings to the position of untouchables, creation of unnatural barriers between man and man and superimposition of social and economic inequalities on a large body of the people of this country, and which threatens to reduce Muslims, Christians and other minorities to the status of irredeemable helots, socially and economically;

whereas, the Hindu Caste System is a direct negation of nationalism, equality, democracy and all the noble ideals that Islam stands for;

whereas, different historical backgrounds, traditions, cultures and social and economic orders of the Hindus and Muslims have made impossible the evolution of a single Indian nation inspired by common aspirations and ideals and whereas after centuries they still remain two distinct major nations ;

whereas, soon after the introduction by the British of the policy of setting up political institutions in India on the lines of Western democracies based on majority rule which meant that the majority of one nation or society could impose its will on the majority of the other nation or society in spite of their opposition as was amply demonstrated during the two and a half years regime of Congress Government in the Hindu majority Provinces under the Government of India Act, 1935, when the Muslims were subjected to untold harassment and oppression as a result of which they were convinced of the futility and ineffectiveness of the so-called safeguards provided in the constitution and in the Instrument of Instructions to the Governors and were driven to the irresistible conclusion that in a United Indian Federation, if established, the Muslims even in majority Provinces would meet with no better fate and their rights and interests could never be adequately protected against the perpetual Hindu majority at the Centre;

whereas, the Muslims are convinced that with a view to save Muslim India from the domination of the Hindus and in order to afford them full scope to develop themselves according to their genius, it is necessary to constitute a sovereign independent State comprising Bengal and Assam in the North-East zone and the Punjab, North-West Frontier Province, Sind and Baluchistan in the North-West zone:

This Convention of the Muslim League Legislators of India, Central and Provincial, after careful consideration hereby declares that the Muslim Nation will never submit to any constitution for a United India and will never participate in any single constitution-making machinery set up for the purpose, and that any formula devised by the British Government for transferring power from the British to the peoples of India, which does not conform to the following just and equitable principles calculated to maintain internal peace and tranquillity in the country, will not contribute to the solution of the Indian problem :

1. That the zones comprising Bengal and Assam in the North-East and the Punjab, North-West Frontier Province, Sind and Baluchistan in the North-West of India, namely, Pakistan zones, where the Muslims are in a dominant majority, be constituted into a sovereign independent State and that an unequivocal undertaking be given to implement the establishment of Pakistan without delay;
2. that two separate constitution-making bodies be set up by peoples of Pakistan and Hindustan for the purpose of framing their respective constitutions ;
3. that the minorities in Pakistan and Hindustan be provided with safeguards on the lines of the All-India Muslim League Resolution passed on the 23rd March 1940, at Lahore;



4. that the acceptance of the Muslim League demand of Pakistan and its implementation without delay are the *sine qua non* for the Muslim League co-operation and participation in the formation of an interim Government at the Centre.

This Convention further emphatically declares that any attempt to impose a constitution on a United India basis or to force any interim arrangement at the Centre contrary to the Muslim League demand will leave the Muslims no alternative but to resist such imposition by all possible means for their survival and national existence.

(IV) LETTER FROM THE PRESIDENT OF THE CONGRESS TO  
PETHICK-LAWRENCE

May 6, 1946

My colleagues and I followed with care the proceedings of the conference yesterday and tried to understand what our conversations were leading up to. I confess to feeling somewhat mystified and disturbed at the vagueness of our talks and some of the assumptions underlying them. While we would like to associate ourselves with every effort to explore ways and means of finding a basis of agreement, we must not deceive ourselves, the Cabinet Mission or the representatives of the Muslim League into the belief that the way the conference has so far proceeded furnishes hope of success. Our general approach to the questions before us was stated briefly in my letter to you of April 28th. We find that this approach has been largely ignored and a contrary method has been followed. We realise that some assumptions have to be made in the early stages as otherwise there can be no progress. But assumptions which ignore or run contrary to fundamental issues are likely to lead to misunderstandings during the later stages.

In my letter of April 28th, I stated that the basic issue before us was that of Indian independence and the consequent withdrawal of the British army from India, for there can be no independence so long as there is a foreign army on Indian soil. We stand for the independence of the whole of India now and not in the distant or near future. Other matters are subsidiary to this and can be fitly discussed and decided by the Constituent Assembly.

At the conference yesterday I referred to this again and we were glad to find that you and your colleagues, as well as the other members of the conference, accepted Indian independence as the basis of our talks. It was stated by you that the Constituent Assembly would finally decide about the nexus or other relationship that might be established between a free India and England. While this is perfectly true, it does not affect the position now, and that is the acceptance of Indian independence now.

If that is so then certain consequences inevitably follow. We felt yesterday that there was no appreciation of these consequences. A Constituent Assembly is not going to decide the question of independence; that question must be and, we take it, has been decided now. That Assembly will represent the will of the free Indian nation and give effect to it. It is

not going to be bound by any previous arrangements. It has to be preceded by a Provisional Government which must function, as far as possible, as a government of free India, and which should undertake to make all arrangements for the transitional period.

In our discussions yesterday repeated references were made to "groups" of Provinces functioning together, and it was even suggested that such a group would have an executive and legislative machinery. This method of grouping has not so far been discussed by us but still our talks seemed to presume all this. I should like to make it very clear that we are entirely opposed to any executive or legislative machinery for a group of Provinces or units of the Federation. That will mean a sub-federation, if not something more, and we have already told you that we do not accept this. It would result in creating three layers of executive and legislative bodies, an arrangement which will be cumbrous, static and disjointed, leading to continuous friction. We are not aware of any such arrangement in any country.

We are emphatically of opinion that it is not open to the conference to entertain any suggestions for a division of India. If this is to come, it should come through the Constituent Assembly free from any influence of the present governing power.

Another point we wish to make clear is that we do not accept the proposal for parity as between groups in regard to the executive or legislature. We realise that everything possible should be done to remove fears and suspicions from the mind of every group and community. But the way to do this is not by unreal methods which go against the basic principles of democracy on which we hope to build up our constitution.

(V) LETTER FROM PETHICK-LAWRENCE TO THE PRESIDENTS OF  
THE MUSLIM LEAGUE AND THE CONGRESS

May 8, 1946

My colleagues and I have been thinking over the best method of laying before the Conference what in our judgment seems the most likely basis of agreement as shown by the deliberations so far.

We have come to the conclusion that it will be for the convenience of the parties if we commit this to writing and send them confidential copies before the Conference meets again.

We hope to be in a position to let you have this in the course of the morning. But as this will give you too short a time to study it adequately before the proposed resumption of the Conference at 3 o'clock this afternoon, I feel sure that you will agree that the meeting be postponed until the same hour (3 o'clock) tomorrow afternoon, Thursday, 9th May, and I hope that you will concur in this change of time which we are convinced is in the interests of all parties.

(VI) LETTER FROM PRIVATE SECRETARY TO PETHICK-LAWRENCE  
TO THE PRESIDENTS OF THE CONGRESS AND  
THE MUSLIM LEAGUE  
May 8, 1946

With reference to the Secretary of State's letter to you this morning the Cabinet Delegation wish me to send to you the enclosed document which is the paper to which the Secretary of State referred. The Delegation propose that this paper should be discussed at the next meeting to be held on Thursday afternoon at 3 p.m. if that is agreeable to the Congress/Muslim League delegates.

ENCLOSURE

SUGGESTED POINTS FOR AGREEMENT BETWEEN THE REPRESENTATIVES OF  
THE CONGRESS AND THE MUSLIM LEAGUE

1. There shall be an All-India Union Government and Legislature dealing with Foreign Affairs, Defence, Communications, Fundamental Rights and having the necessary powers to obtain for itself the finances it requires for these subjects.
2. All the remaining powers shall vest in the Provinces.
3. Groups of Provinces may be formed and such groups may determine the Provincial subjects which they desire to take in common.
4. The groups may set up their own Executives and Legislatures.
5. The Legislature of the Union shall be composed of equal proportions from the Muslim-majority Provinces and from the Hindu-majority Provinces whether or not these or any of them have formed themselves into groups; together with representatives of the States.
6. The Government of the Union shall be constituted in the same proportion as the Legislature.
7. The constitutions of the Union and the groups (if any) shall contain a provision whereby any Province can by a majority vote of its Legislative Assembly call for a reconsideration of the terms of the constitution after an initial period of 10 years and at 10-yearly intervals thereafter.

For the purpose of such reconsideration a body shall be constituted on the same basis as the original Constituent Assembly and with the same provisions as to voting and shall have power to amend the constitution in any way decided upon.

8. The constitution-making machinery to arrive at a constitution on the above basis shall be as follows :

- A. Representatives shall be elected from each Provincial Assembly in proportion to the strengths of the various parties in that Assembly on the basis of 1/10th of their numbers.
- B. Representatives shall be invited from the States on the basis of their population in proportion to the representation from British India.
- C. The Constituent Assembly so formed shall meet at the earliest date possible in New Delhi.
- D. After its preliminary meeting at which the general order of business will be settled it will divide into three sections, one section representing the Hindu-majority Provinces, one section representing the Muslim-majority Provinces and one representing the States.

- E. The first two sections will then meet separately to decide the Provincial constitutions for their group and, if they wish, a group constitution.
- F. When these have been settled it will be open to any Province to decide to opt out of its original group and into the other group or to remain outside any group.
- G. Thereafter the three bodies will meet together to settle the constitution for the Union on the lines agreed in paragraphs 1-7 above.
- H. No major point in the Union constitution which affects the communal issue shall be deemed to be passed by the Assembly unless a majority of both the two major communities vote in its favour.
- 9. The Viceroy shall forthwith call together the above constitution-making machinery which shall be governed by the provisions stated in paragraph 8 above.

(VII) LETTER FROM THE PRESIDENT OF THE MUSLIM LEAGUE  
TO PETHICK-LAWRENCE

May 8, 1946

I have now received the letter of your Private Secretary, dated 8th May 1946, and the enclosed document to which you had referred in your earlier letter of 8th May, 1946. It is proposed by you that this "paper" be discussed at the next meeting of the conference to be held on Thursday afternoon at 3.00 p.m. if this is agreeable to the Muslim League Delegation.

Your proposal embodied in your letter of 27th April 1946 runs as follows :

A Union Government dealing with the following subjects: Foreign Affairs, Defence and Communications. There will be two groups of Provinces, the one of the predominantly Hindu Provinces and the other of the predominantly Muslim Provinces, dealing with all other subjects which the Provinces in the respective groups desire to be dealt with in common. The Provincial Governments will deal with all other subjects and will have all residuary sovereign rights.

This matter was to be discussed at Simla and we agreed to attend the Conference on Sunday, 5th May 1946, on the terms of my letter, dated 28th April 1946.

You were good enough to explain your formula and then after hours of discussion on the 5th and 6th of May, the Congress finally and definitely turned down the proposed Union confined only to three subjects even with power to levy contribution for financing the Union.

Next, your formula clearly envisaged an agreement precedent between the Congress and the Muslim League with regard to the grouping of Muslim and Hindu Provinces and the formation of two Federations of the grouped Provinces and it followed that there must be two constitution-making machineries. It was on that basis that some kind of Union was suggested in your formula confined only to three subjects and our approval was sought in order to put into this skeleton blood and flesh. This proposal was also categorically turned down by the Congress and the meeting had to be adjourned for the Mission to consider the matter further as to what steps they may take in the matter.

And now the new enclosed document has been sent to us with a view that "this paper should be discussed at the next meeting to be held on Thursday afternoon at 3 p.m." The heading of the paper is "Suggested Points for Agreement Between the Representatives of Congress and the Muslim League." By whom are they suggested, it is not made clear.

We are of the opinion that the new suggested points for agreement are a fundamental departure from the original formula embodied in your letter of 27th April, which was rejected by the Congress.

To mention some of the important points we are now asked to agree that there should be one All-India Union Government in terms of paragraphs 1-7 of this paper, which adds one more subject to be vested in the Union Government, *i.e.*, "Fundamental Rights" and it is not made clear whether the Union Government and Legislature will have power or not to obtain for itself the finances by means of taxation.

In the new "suggestions" the question of grouping of Provinces is left exactly as the Congress spokesmen desired in the course of discussions that have taken place hitherto, and is totally different from your original formula.

That there should be a single constitution-making body, we can never agree to; nor can we agree to the method of formation of constitution-making machineries suggested in the paper.

There are many other objectionable features contained in the suggestions which we have not dealt with as we are only dealing with the main points arising out of this paper. In these circumstances, we think, no useful purpose will be served to discuss this paper, as it is a complete departure from your original formula, unless after what we have said above you still desire us to discuss it in the Conference itself tomorrow.

(VIII) LETTER FROM PETHICK-LAWRENCE TO THE PRESIDENT  
OF THE MUSLIM LEAGUE

May 9, 1946

I have to acknowledge your letter of yesterday which I have shown to my colleagues. In it you raise a number of issues to which I propose to reply in order.

1. You claim that Congress "finally and definitely turned down the proposed Union confined only to three subjects even with power to levy contribution for financing the Union". This statement is not in accord with my recollection of what took place in the Conference room. It is true that the Congress representatives expressed their view that the limitation was too narrow and argued further that even so limited it necessarily included certain ancillary matters. Up to a point you recognised that there was some force in the argument because you agreed, as I understood, that some power to obtain the necessary finance must be given. There was no final decision on this matter (or of course on any other).

2. Next you claim, if I understand you aright, that our reference to the formation of groups is at variance with the formula in our invitation. I am afraid I cannot accept this view. It is of course a slightly amplified form because it specifies the manner in which the Provinces can decide as to joining any particular group. This amplified form is put forward by us as a reasonable compromise between the views of the Muslim League and those originally expressed by Congress against grouping at all.

3. You further take exception to the machinery that we suggest should be set up for making the constitution. I would point out to you however that you yourself in explaining how your two constitution-making bodies would work agreed on Tuesday last in the Conference that they would have to join together in the end to decide the constitution of the Union and you took no exception to their having a preliminary session in common to decide procedure. What we are proposing is in fact precisely the same thing expressed in different words. I am therefore quite at a loss to understand what you have in mind when you use the words "this proposal was also categorically turned down by the Congress".

4. In your next succeeding paragraph you ask who it is that makes the suggestions that are contained in the document I sent you. The answer is the Cabinet Mission and His Excellency the Viceroy who make them in our endeavour to bridge the gap between the view-points of the Congress and Muslim League.

5. You next take exception to our departing from the original formula in my invitation. I would remind you that in accepting my original invitation neither the Muslim League nor the Congress bound itself to accept in full the original formula, and in my reply of April 29th I wrote these words :

We have never contemplated that acceptance by the Muslim League and the Congress of our invitation would imply as a preliminary condition full approval by them of the terms set out in my letter. These terms are our proposed basis for a settlement and what we have asked the Muslim League Working Committee to do is to agree to send its representatives to meet ourselves and representatives of the Congress in order to discuss it.

Indeed this is the only sensible attitude because the object of all our discussions is to explore every conceivable possibility of reaching agreement.

6. "Fundamental Rights" were included by us in our suggestions for addition to the list of Union subjects because it seemed to us that it would be of benefit both to the large communities and to the small minorities for them to be put in and accordingly to be worthy of consideration in our conference. As to finance it will of course be quite open to discuss in the conference the precise significance of the inclusion of this word in its context.

7. Your two following paragraphs are mainly a recapitulation of your previous arguments and have been already dealt with above.

From your last paragraph I understand that though you do not consider in the circumstances that any good purpose would be served by the attend-

ance of the Muslim League delegation at the conference fixed for this afternoon, you are willing to come if we express a desire that you should do so. My colleagues and I wish to obtain the views of both parties on the document submitted and therefore would be glad to see you at the Conference.

(IX) LETTER FROM THE PRESIDENT OF THE CONGRESS TO  
PETHICK-LAWRENCE

May 9, 1946

My colleagues and I have given the most careful consideration to the memorandum sent by you yesterday suggesting various points of agreement. On the 28th April I sent you a letter in which I explained briefly the Congress view-point in regard to certain "fundamental principles" mentioned in your letter of 27th April. After the first day of the conference, on May 6th I wrote to you again to avoid any possible misunderstanding regarding the issues being discussed in the conference.

I now find from your memorandum that some of your suggestions are entirely opposed to our views and to the views repeatedly declared by the Congress. We are thus placed in a difficult position. It has been and is our desire to explore every avenue for a settlement and a change-over in India by consent, and for this purpose we are prepared to go far. But there are obvious limits beyond which we cannot go if we are convinced that this would be injurious to the people of India and to India's progress as a free nation.

In my previous letters I have laid stress on the necessity of having a strong and organic Federal Union. I have also stated that we do not approve of sub-federations or grouping of Provinces in the manner suggested, and are wholly opposed to parity in executives or legislatures as between wholly unequal groups. We do not wish to come in the way of Provinces or other units cooperating together, if they so choose, but this must be entirely optional.

The proposals you have put forward are meant, we presume, to limit the free discretion of the Constituent Assembly. We do not see how this can be done. We are at present concerned with one important aspect of a larger problem. Any decision on this aspect taken now might well conflict with the decisions we, or the Constituent Assembly, might want to take on other aspects. The only reasonable course appears to us is to have a Constituent Assembly with perfect freedom to draw up its constitution, with certain reservations to protect the rights of minorities. Thus we may agree that any major communal issue must be settled by consent of the parties concerned, or, where such consent is not obtained, by arbitration.

From the proposals you have sent us (8 D.E.F.G.)\* it would appear that

\*See pp. 197-8.

two or three separate constitutions might emerge for separate groups, joined together by a flimsy common super-structure left to the mercy of the three disjointed groups.

There is also compulsion in the early stages for a Province to join a particular group whether it wants to or not. Thus why should the Frontier Province, which is clearly a Congress Province, be compelled to join any group hostile to the Congress?

We realise that in dealing with human beings, as individuals or groups, many considerations have to be borne in mind besides logic and reason. But logic and reason cannot be ignored altogether, and unreason and injustice are dangerous companions at any time and, more especially, when we are building for the future of hundreds of millions of human beings.

I shall now deal with some of the points in your memorandum and make some suggestions in regard to them.

*No. 1.*—We note that you have provided for the Union to have necessary powers to obtain for itself the finance it requires for the subjects it deals with. We think it should be clearly stated that the Federal Union must have power to raise revenues in its own right. Further that currency and customs must in any event be included in the Union subjects, as well as such other subjects as on closer scrutiny may be found to be intimately allied to them. One other subject is an essential and inevitable Union subject and that is Planning. Planning can only be done effectively at the Centre, though the Provinces or units will give effect to it in their respective areas.

The Union must also have power to take remedial action in cases of breakdown of the constitution and in grave public emergencies.

*Nos. 5 and 6.*—We are entirely opposed to the proposed parity, both in the Executive and Legislature, as between wholly unequal groups. This is unfair and will lead to trouble. Such a provision contains in itself the seed of conflict and the destruction of free growth. If there is no agreement on this or any similar matter, we are prepared to leave it to arbitration.

*No. 7.*—We are prepared to accept the suggestion that provision be made for a reconsideration of the constitution after ten years. Indeed the constitution will necessarily provide the machinery for its revision at any time.

The second clause lays down that reconsideration should be done by a body constituted on the same basis as the Constituent Assembly. This present provision is intended to meet an emergency. We expect that the constitution for India will be based on adult suffrage. Ten years hence India is not likely to be satisfied with anything less than adult suffrage to express its mind on all grave issues.

*No. 8-A.*—We would suggest that the just and proper method of elections, fair to all parties, is the method of proportional representation by single transferable vote. It might be remembered that the present basis of election for the Provincial Assemblies is strongly weighted in favour of the minorities.

The proportion of 1/10th appears to be too small and will limit the



numbers of the Constituent Assembly too much. Probably the number would not exceed 200. In the vitally important tasks the Assembly will have to face, it should have larger numbers. We suggest that at least one-fifth of the total membership of the Provincial Assemblies should be elected for the Constituent Assembly.

*No. 8-B.*—This clause is vague and requires elucidation. But for the present we are not going into further details.

*No. 8-D.E.F.G.*—I have already referred to these clauses. We think that both the formation of these groups and the procedure suggested are wrong and undesirable. We do not wish to rule out the formation of the groups if the Provinces so desire. But this subject must be left open for decision by the Constituent Assembly. The drafting and settling of the constitution should begin with the Federal Union. This should contain common and uniform provisions for the Provinces and other units. The Provinces may then add to these.

*No. 8-H.*—In the circumstances existing today we are prepared to accept some such clause. In case of disagreement the matter should be referred to arbitration.

I have pointed out above some of the obvious defects, as we see them, in the proposals contained in your memorandum. If these are remedied, as suggested by us, we might be in a position to recommend their acceptance by the Congress. But as drafted in the memorandum sent to us, I regret that we are unable to accept them.

On the whole, therefore, if the suggestions are intended to have a binding effect, with all the will in the world to have an agreement with the League, we must repudiate most of them. Let us not run into any evil greater than the one all of us three parties should seek to avoid.

If an agreement honourable to both the parties and favourable to the growth of free and united India cannot be achieved, we would suggest that an interim Provisional Government responsible to the elected members of the Central Assembly be formed at once and the matters in dispute concerning the Constituent Assembly between the Congress and the League be referred to an independent tribunal.

(X) MEMORANDUM BY THE PRESIDENT OF THE MUSLIM LEAGUE EMBODYING MINIMUM DEMANDS BY WAY OF AN OFFER, IN ACCORDANCE WITH THE CONFERENCE DECISION, (COPIES SENT TO THE CABINET DELEGATION AND THE CONGRESS)

May 12, 1946

PRINCIPLES TO BE AGREED TO AS OUR OFFER

1. The six Muslim Provinces (Punjab, N.W.F.P., Baluchistan, Sind, Bengal and Assam) shall be grouped together as one group and will deal

with all other subjects and matters except Foreign Affairs, Defence and Communications necessary for Defence, which may be dealt with by the constitution making bodies of the two groups of Provinces—Muslim Provinces (hereinafter named Pakistan Group) and Hindu Provinces—sitting together.

2. There shall be a separate constitution-making body for the six Muslim Provinces named above, which will frame constitutions for the group and the Provinces in the group and will determine the list of subjects that shall be Provincial and Central (of the Pakistan Federation) with residuary sovereign powers vesting in the Provinces.

3. The method of election of the representatives to the constitution-making body will be such as would secure proper representation to the various communities in proportion to their population in each Province of the Pakistan group.

4. After the constitution of the Pakistan Federal Government and the Provinces are finally framed by the constitution-making body, it will be open to any Province of the group to decide to opt out of its group, provided the wishes of the people of that Province are ascertained by a referendum to opt out or not.

5. It must be open to discussion in the joint constitution-making body as to whether the Union will have a legislature or not. The method of providing the Union with finance should also be left for decision of the joint meeting of the two constitution-making bodies, but in no event shall it be by means of taxation.

6. There should be parity of representation between the two groups of Provinces in the Union executive and the legislature if any.

7. No major point in the Union constitution which affects the communal issue shall be deemed to be passed in the joint constitution-making body, unless the majority of the members of the constitution-making body of the Hindu Provinces and the majority of the members of the constitution-making body of the Pakistan group, present and voting, are separately in its favour.

8. No decision, legislative, executive or administrative, shall be taken by the Union in regard to any matter of controversial nature, except by a majority of three-fourths.

9. In group and provincial constitutions fundamental rights and safeguards concerning religion, culture and other matters affecting the different communities will be provided for.

10. The constitution of the Union shall contain a provision whereby any Province can, by a majority vote of its Legislative Assembly, call for reconsideration of the terms of the constitution, and will have the liberty to secede from the Union at any time after an initial period of ten years.

These are the principles of our offer for a peaceful and amicable settle-

ment and this offer stands in its entirety and all matters mentioned herein are interdependent.

(XI) POINTS SUGGESTED ON BEHALF OF THE CONGRESS AS A  
BASIS FOR AGREEMENT

May 12, 1946

1. The Constituent Assembly to be formed as follows :
  - (i) Representatives shall be elected by each Provincial Assembly by proportional representation (single transferable vote). The number so elected should be one-fifth of the number of members of the Assembly and they may be members of the Assembly or others.
  - (ii) Representatives from the States on the basis of their population in proportion to the representation from British India. How these representatives are to be chosen is to be considered later.
2. The Constituent Assembly shall draw up a constitution for the Federal Union. This shall consist of an All-India Federal Government and Legislature dealing with Foreign Affairs, Defence, Communications, Fundamental Rights, Currency, Customs and Planning, as well as such other subjects as, on closer scrutiny, may be found to be intimately allied to them. The Federal Union will have necessary powers to obtain for itself the finances it requires for these subjects and the power to raise revenues in its own right. The Union must also have power to take remedial action in cases of breakdown of the constitution and in grave public emergencies.
3. All the remaining powers shall vest in the Provinces or Units.
4. Groups of Provinces may be formed and such groups may determine the Provincial subjects which they desire to take in common.
5. After the Constituent Assembly has decided the constitution for the All-India Federal Union as laid down in paragraph 2 above, the representatives of the Provinces may form groups to decide the Provincial constitutions for their group and, if they wish, a group constitution.
6. No major point in the All-India Federal constitution which affects the communal issue shall be deemed to be passed by the Constituent Assembly unless a majority of the members of the community or communities concerned present in Assembly and voting are separately in its favour. Provided that in case there is no agreement on any such issue, it will be referred to arbitration. In case of doubt as to whether any point is a major communal issue, the Speaker will decide, or, if so desired, it may be referred to the Federal Court.
7. In the event of a dispute arising in the process of constitution-making, the specific issue shall be referred to arbitration.
8. The constitution should provide machinery for its revision at any time subject to such checks as may be desired. If so desired, it may be specifically stated that this whole constitution may be considered after ten years.

(XII) NOTE BY THE CONGRESS ON THE PRINCIPLES TO BE AGREED  
UPON AS SUGGESTED ON BEHALF OF THE MUSLIM LEAGUE

May 12, 1946

The approach of the Muslim League is so different from that of the Congress in regard to these matters that it is a little difficult to deal with each point separately without reference to the rest. The picture as envisaged by the Congress is briefly given in a separate note. From consideration of this note and the Muslim League's proposals the difficulties and the possible agreement will become obvious.

The Muslim League's proposals are dealt with below briefly:

- (1) We suggest that the proper procedure is for one constitution-making body or Constituent Assembly to meet for the whole of India and later for groups to be formed if so desired by the Provinces concerned. The matter should be left to the Provinces and if they wish to function as a group they are at liberty to do so and to frame their own constitution for the purpose. In any event Assam has obviously no place in the group mentioned, and the North-West Frontier Province, as the elections show, is not in favour of this proposal.
- (2) We have agreed to residuary powers, apart from the central subjects, vesting in the Provinces. They can make such use of them as they like and, as has been stated above, function as a group. What the ultimate nature of such a group may be cannot be determined at this stage and should be left to the representatives of the Provinces concerned.
- (3) We have suggested that the most suitable method of election would be by single transferable vote. This would give proper representation to the various communities in proportion to their present representation in the legislatures. If the population proportion is taken, we have no particular objection, but this would lead to difficulties in all the Provinces where there is weightage in favour of certain communities. The principle approved of would necessarily apply to all the provinces.
- (4) There is no necessity for opting out of a Province from its group as the previous consent of the Provinces is necessary for joining the group.
- (5) We consider it essential that the Federal Union should have a Legislature. We also consider it essential that the Union should have power to raise its own revenue.
- (6 and 7) We are entirely opposed to parity of representation as between groups of Provinces in the Union executive or legislature. We think that the provision to the effect that no major communal issue in the Union constitution shall be deemed to be passed by the

Constituent Assembly unless a majority of the members of the community or communities concerned present and voting in the Constituent Assembly are separately in its favour, is a sufficient and ample safeguard of all minorities. We have suggested something wider and including all communities than has been proposed elsewhere. This may give rise to some difficulties in regard to small communities, but all such difficulties can be got over by reference to arbitration. We are prepared to consider the method of giving effect to this principle so as to make it more feasible.

- (8) This proposal is so sweeping in its nature that no government or legislature can function at all. Once we have safeguarded major communal issues other matters, whether controversial or not, require no safeguard. This will simply mean safeguarding vested interests of all kinds and preventing progress, or indeed any movement in any direction. We, therefore, entirely disapprove of it.
- (9) We are entirely agreeable to the inclusion of Fundamental Rights and safeguards concerning religion, culture and like matters in the constitution. We suggest that the proper place for this is the All-India Federal Union constitution. There should be uniformity in regard to these Fundamental Rights all over India.
- (10) The constitution of the Union will inevitably contain provisions for its revision. It may also contain a provision for its full reconsideration at the end of ten years. The matter will be open then for a complete reconsideration. Though it is implied, we would avoid reference to secession as we do not wish to encourage this idea.

## CABINET MISSION'S PLAN

May 16, 1946

*[The Congress and the Muslim League having failed to reach an agreement, the Cabinet Mission issued on May 16, 1946, a statement putting forward their own proposals regarding the basic form of the future constitution and the setting up of the constitution-making machinery. The Mission rejected the idea of a separate sovereign State of Pakistan. As a compromise between the respective stands of the Congress and the League, it recommended a three-tier basis for the new constitution. There was to be a Union of India, embracing both British India and the Indian (Princely) States. The Union was to deal with Foreign Affairs, Defence and Communications and to have power to raise the finances required for these subjects. All other subjects and residuary powers were to vest in the Provinces. The Indian States were to retain all subjects and powers other than those ceded to the Union. The Provinces were to be free to form Groups with executives and legislatures and each Group could determine the Provincial subjects to be taken in common. Within this broad framework, the new constitution was to be framed by a constitution-making body in which the Provinces were to be represented on a population basis, roughly in the ratio of one member to a million; the seats allocated to the Provinces were to be divided among the principal communities—Sikhs, Muslims and General (all except Sikhs and Muslims)—on the basis of their numerical strength; the representatives of each community were to be elected by members of that community in the Provincial Assembly by the method of proportional representation. The number of representatives of the Indian States was also to be fixed on the same population basis as adopted for British India, but the method of their selection was left to be settled by consultation. In regard to the procedure to be followed in the constitution-making body, it was laid down that for the purpose of settling the Provincial and Group constitutions, Provincial representatives were to function in three separate Sections—'A', 'B' and 'C', of which 'B' and 'C' respectively covered the Muslim majority zones of North-West and East India. The statement also stressed the immediate need for setting up an interim Government having the support of the major political parties. The proposals outlined in the statement were explained and commended to the people of India in a broadcast by the Secretary of State, Pethick-Lawrence, on May 16 and in another broadcast by Viceroy Wavell on the following day. An exposition of the salient features of the statement was also given by Stafford Cripps at a Press Conference held in New Delhi on*

*May 16, while at another Press Conference on May 17 Pethick-Lawrence answered a large number of questions seeking clarification in regard to various aspects of the Mission's Plan. The texts of the Mission's statement and the aforesaid broadcasts and Press Conference proceedings are reproduced below.]*

(I) STATEMENT BY THE CABINET MISSION AND THE VICEROY  
May 16, 1946

ON THE 15TH MARCH last, just before the despatch of the Cabinet Mission to India Mr. Attlee, the British Prime Minister, used these words :

My colleagues are going to India with the intention of using their utmost endeavours to help her to attain her freedom as speedily and fully as possible. What form of Government is to replace the present regime is for India to decide ; but our desire is to help her to set up forthwith the machinery for making that decision...

I hope that India and her people may elect to remain within the British Commonwealth. I am certain that they will find great advantages in doing so....

But if she does so elect, it must be by her own free will. The British Commonwealth and Empire is not bound together by chains of external compulsion. It is a free association of free peoples. If, on the other hand, she elects for independence, in our view she has a right to do so. It will be for us to help to make the transition as smooth and easy as possible.

2. Charged in these historic words, we—the Cabinet Ministers and the Viceroy—have done our utmost to assist the two main political parties to reach agreement upon the fundamental issue of the unity or division of India. After prolonged discussions in New Delhi we succeeded in bringing the Congress and the Muslim League together in conference at Simla. There was a full exchange of views and both parties were prepared to make considerable concessions in order to try to reach a settlement, but it ultimately proved impossible to close the remainder of the gap between the parties and so no agreement could be concluded. Since no agreement has been reached, we feel that it is our duty to put forward what we consider are the best arrangements possible to ensure a speedy setting up of the new constitution. This statement is made with the full approval of His Majesty's Government in the United Kingdom.

3. We have accordingly decided that immediate arrangements should be made whereby Indians may decide the future constitution of India and an Interim Government may be set up at once to carry on the administration of British India until such time as a new constitution can be brought into being. We have endeavoured to be just to the smaller as well as to the larger sections of the people ; and to recommend a solution which will lead

to a practicable way of governing the India of the future, and will give a sound basis for defence and a good opportunity for progress in the social, political and economic field.

4. It is not intended in this statement to review the voluminous evidence that has been submitted to the Mission; but it is right that we should state that it has shown an almost universal desire, outside the supporters of the Muslim League, for the unity of India.

5. This consideration did not, however, deter us from examining closely and impartially the possibility of a partition of India; since we were greatly impressed by the very genuine and acute anxiety of the Muslims lest they should find themselves subjected to a perpetual Hindu-majority rule. This feeling has become so strong and widespread amongst the Muslims that it cannot be allayed by mere paper safeguards. If there is to be internal peace in India it must be secured by measures which will assure to the Muslims a control in all matters vital to their culture, religion, and economic or other interests.

6. We therefore examined in the first instance the question of a separate and fully independent sovereign State of Pakistan as claimed by the Muslim League. Such a Pakistan would comprise two areas; one in the North-West consisting of the Provinces of the Punjab, Sind, North-West Frontier, and British Baluchistan; the other in the North-East consisting of the Provinces of Bengal and Assam. The League were prepared to consider adjustment of boundaries at a later stage, but insisted that the principle of Pakistan should first be acknowledged. The argument for a separate State of Pakistan was based, first, upon the right of the Muslim majority to decide their method of Government according to their wishes, and, secondly, upon the necessity to include substantial areas in which Muslims are in a minority, in order to make Pakistan administratively and economically workable. The size of the non-Muslim minorities in a Pakistan comprising the whole of the six Provinces enumerated above would be very considerable as the following figures\* show :

						<i>Muslim</i>	<i>Non-Muslim</i>
North-Western Area—							
Punjab	...	...	...	...	...	16,217,242	12,201,577
North-West Frontier Province	...	...	...	...	...	2,788,797	249,270
Sind	...	...	...	...	...	3,208,325	1,326,683
British Baluchistan	...	...	...	...	...	438,930	62,701
						<hr/>	<hr/>
						22,653,294	13,840,231
						<hr/>	<hr/>
						62·07 per cent	37·93 per cent

\*All population figures in this statement are from the most recent census taken in 1941.



## North-Eastern Area—

Bengal	...	...	...	...	...	33,005,434	27,301,091
Assam	...	...	...	...	...	3,442,479	6,762,254
						<hr/>	<hr/>
						36,447,913	34,063,345
						<hr/>	<hr/>

51·69 per cent      48·31 per cent

The Muslim minorities in the remainder of British India number some 20 million dispersed amongst a total population of 188 million.

These figures show that the setting up of a separate sovereign State of Pakistan on the lines claimed by the Muslim League would not solve the communal minority problem; nor can we see any justification for including within a sovereign Pakistan those districts of the Punjab and of Bengal and Assam in which the population is predominantly non-Muslim. Every argument that can be used in favour of Pakistan can equally, in our view, be used in favour of the exclusion of the non-Muslim areas from Pakistan. This point would particularly affect the position of the Sikhs.

7. We therefore considered whether a smaller sovereign Pakistan confined to the Muslim majority areas alone might be a possible basis of compromise. Such a Pakistan is regarded by the Muslim League as quite impracticable because it would entail the exclusion from Pakistan of (a) the whole of the Ambala and Jullundur Divisions in the Punjab; (b) the whole of Assam except the district of Sylhet; and (c) a large part of Western Bengal including Calcutta, in which city the percentage of the Muslim population is 23·6 per cent. We ourselves are also convinced that any solution which involves a radical partition of the Punjab and Bengal, as this would do, would be contrary to the wishes and interests of a very large proportion of the inhabitants of these provinces. Bengal and the Punjab each has its own common language and a long history and tradition. Moreover, any division of the Punjab would of necessity divide the Sikhs, leaving substantial bodies of Sikhs on both sides of the boundary. We have therefore been forced to the conclusion that neither a larger nor a smaller sovereign State of Pakistan would provide an acceptable solution for the communal problem.

8. Apart from the great force of the foregoing arguments there are weighty administrative, economic and military considerations. The whole of the transportation and postal and telegraph systems of India have been established on the basis of a united India. To disintegrate them would gravely injure both parts of India. The case for a united defence is even stronger. The Indian Armed Forces have been built up as a whole for the defence of India as a whole, and to break them in two would inflict a deadly blow on the long traditions and high degree of efficiency of the Indian Army and would entail the gravest dangers. The Indian Navy and Indian Air Force would become much less effective. The two sections of

the suggested Pakistan contain the two most vulnerable frontiers in India and for a successful defence in depth the area of Pakistan would be insufficient.

9. A further consideration of importance is the greater difficulty which the Indian States would find in associating themselves with a divided British India.

10. Finally, there is the geographical fact that the two halves of the proposed Pakistan State are separated by some seven hundred miles and the communications between them both in war and peace would be dependent on the good-will of Hindustan.

11. We are therefore unable to advise the British Government that the power which at present resides in British hands should be handed over to two entirely separate sovereign States.

12. This decision does not however blind us to the very real Muslim apprehensions that their culture and political and social life might become submerged in a purely unitary India, in which the Hindus with their greatly superior numbers must be a dominating element. To meet this the Congress have put forward a scheme under which Provinces would have full autonomy subject only to a minimum of Central subjects, such as Foreign Affairs, Defence and Communications.

Under this scheme Provinces, if they wished to take part in economic and administrative planning on a large scale, could cede to the Centre optional subjects in addition to the compulsory ones mentioned above.

13. Such a scheme would, in our view, present considerable constitutional disadvantages and anomalies. It would be very difficult to work a Central Executive and Legislature in which some Ministers, who dealt with Compulsory subjects, were responsible to the whole of India while other Ministers, who dealt with Optional subjects, would be responsible only to those Provinces which had elected to act together in respect of such subjects. This difficulty would be accentuated in the Central Legislature, where it would be necessary to exclude certain members from speaking and voting when subjects with which their Provinces were not concerned were under discussion. Apart from the difficulty of working such a scheme, we do not consider that it would be fair to deny to other Provinces, which did not desire to take the optional subjects at the Centre, the right to form themselves into a group for a similar purpose. This would indeed be no more than the exercise of their autonomous powers in a particular way.

14. Before putting forward our recommendation we turn to deal with the relationship of the Indian States to British India. It is quite clear that with the attainment of independence by British India, whether inside or outside the British Commonwealth, the relationship which has hitherto existed between the Rulers of the States and the British Crown will no longer be possible. Paramountcy can neither be retained by the British Crown nor transferred to the new Government. This fact has been fully

recognised by those whom we interviewed from the States. They have at the same time assured us that the States are ready and willing to co-operate in the new development of India. The precise form which their co-operation will take must be a matter for negotiation during the building up of the new constitutional structure, and it by no means follows that it will be identical for all the States. We have not therefore dealt with the States in the same detail as the Provinces of British India in the paragraphs which follow.

15. We now indicate the nature of a solution which in our view would be just to the essential claims of all parties, and would at the same time be most likely to bring about a stable and practicable form of constitution for All-India.

We recommend that the constitution should take the following basic form :

- (1) There should be a Union of India, embracing both British India and the States, which should deal with the following subjects : Foreign Affairs, Defence, and Communications; and should have the powers necessary to raise the finances required for the above subjects.
- (2) The Union should have an Executive and a Legislature constituted from British Indian and States representatives. Any question raising a major communal issue in the Legislature should require for its decision a majority of the representatives present and voting of each of the two major communities as well as a majority of all the members present and voting.
- (3) All subjects other than the Union subjects and all residuary powers should vest in the Provinces.
- (4) The States will retain all subjects and powers other than those ceded to the Union.
- (5) Provinces should be free to form Groups with executives and legislatures and each Group could determine the Provincial subjects to be taken in common.
- (6) The constitutions of the Union and of the Groups should contain a provision whereby any Province could, by a majority vote of its Legislative Assembly, call for a reconsideration of the terms of the constitution after an initial period of 10 years and at 10 yearly intervals thereafter.

16. It is not our object to lay out the details of a constitution on the above programme but to set in motion the machinery whereby a constitution can be settled by Indians for Indians.

It has been necessary however for us to make this recommendation as to the broad basis of the future constitution because it became clear to us in the course of our negotiations that not until that had been done was there any hope of getting the two major communities to join in the setting up of the constitution-making machinery.

17. We now indicate the constitution-making machinery which we propose should be brought into being forthwith in order to enable a new constitution to be worked out.

18. In forming any Assembly to decide a new constitutional structure the first problem is to obtain as broad-based and accurate a representation of the whole population as is possible. The most satisfactory method obviously would be by election based on adult franchise; but any attempt to introduce such a step now would lead to a wholly unacceptable delay in the formulation of the new constitution. The only practicable course is to utilize the recently elected Provincial Legislative Assemblies as the electing bodies. There are, however, two factors in their composition which make this difficult. First, the numerical strengths of the Provincial Legislative Assemblies do not bear the same proportion to the total population in each Province. Thus, Assam with a population of 10 millions has a Legislative Assembly of 108 members, while Bengal, with a population six times as large, has an Assembly of only 250. Secondly, owing to the weightage given to minorities by the Communal Award, the strengths of the several communities in each Provincial Legislative Assembly are not in proportion to their numbers in the Province. Thus the number of seats reserved for Muslims in the Bengal Legislative Assembly is only 48 per cent of the total, although they form 55 per cent of the Provincial population. After a most careful consideration of the various methods by which these points might be corrected, we have come to the conclusion that the fairest and most practicable plan would be—

- (a) to allot to each Province a total number of seats proportional to its population, roughly in the ratio of one to a million, as the nearest substitute for representation by adult suffrage.
- (b) to divide this provincial allocation of seats between the main communities in each Province in proportion to their population.
- (c) to provide that the representatives allotted to each community in a Province shall be elected by the members of that community in its Legislative Assembly.

We think that for these purposes it is sufficient to recognise only three main communities in India: General, Muslim, and Sikh, the "General" community including all persons who are not Muslims or Sikhs. As the smaller minorities would, upon the population basis, have little or no representation since they would lose the weightage which assures them seats in the Provincial Legislatures, we have made the arrangements set out in paragraph 20 below to give them a full representation upon all matters of special interest to the minorities.

19. (i) We therefore propose that there shall be elected by each Provincial Legislative Assembly the following numbers of representatives, each part of the Legislative Assembly (General, Muslim or Sikh) electing its own representatives by the method of proportional representation with the

single transferable vote:

*Table of Representation*

SECTION A

Province	General	Muslim	Total
Madras . . . . .	45	4	49
Bombay . . . . .	19	2	21
United Provinces . . . . .	47	8	55
Bihar . . . . .	31	5	36
Central Provinces . . . . .	16	1	17
Orissa . . . . .	9	0	9
<b>TOTAL</b>	<b>167</b>	<b>20</b>	<b>187</b>

SECTION B

Province	General	Muslim	Sikh	Total
Punjab . . . . .	8	16	4	28
North-West Frontier Province . . . . .	0	3	0	3
Sind . . . . .	1	3	0	4
<b>TOTAL</b>	<b>9</b>	<b>22</b>	<b>4</b>	<b>35</b>

SECTION C

Province	General	Muslim	Total
Bengal . . . . .	27	33	60
Assam . . . . .	7	3	10
<b>TOTAL</b>	<b>34</b>	<b>36</b>	<b>70</b>

TOTAL FOR BRITISH INDIA 292  
 MAXIMUM FOR INDIAN STATES 93

**TOTAL 385**

*Note :* In order to represent the Chief Commissioners' Provinces there will be added to Section A the Member representing Delhi in the Central Legislative Assembly, the Member representing Ajmer-Merwara in the Central Legislative Assembly, and a representative to be elected by the Coorg Legislative Council.

To Section B will be added a representative of British Baluchistan.

(ii) It is the intention that the States would be given in the final Constituent Assembly appropriate representation which would not, on the basis of the calculations adopted for British India, exceed 93, but the method of

selection will have to be determined by consultation. The States would in the preliminary stage be represented by a Negotiating Committee.

(iii) The representatives thus chosen shall meet at New Delhi as soon as possible.

(iv) A preliminary meeting will be held at which the general order of business will be decided, a Chairman and other officers elected, and an Advisory Committee (see paragraph 20 below) on the rights of citizens, minorities, and tribal and excluded areas set up. Thereafter the provincial representatives will divide up into the three sections shown under A, B, and C, in the Table of Representation in sub-paragraph (i) of this paragraph.

(v) These sections shall proceed to settle the Provincial Constitutions for the Provinces included in each section, and shall also decide whether any group constitution shall be set up for those Provinces and, if so, with what provincial subjects the group should deal. Provinces shall have the power to opt out of the groups in accordance with the provisions of sub-clause (viii) below.

(vi) The representatives of the sections and the Indian States shall reassemble for the purpose of settling the Union constitution.

(vii) In the Union Constituent Assembly resolutions varying the provisions of paragraph 15 above or raising any major communal issue shall require a majority of the representatives present and voting of each of the two major communities.

The Chairman of the Assembly shall decide which (if any) of the resolutions raise major communal issues and shall, if so requested by a majority of the representatives of either of the major communities, consult the Federal Court before giving his decision.

(viii) As soon as the new constitutional arrangements have come into operation, it shall be open to any Province to elect to come out of any group in which it has been placed. Such a decision shall be taken by the Legislature of the Province after the first general election under the new constitution.

20. The Advisory Committee on the rights of citizens, minorities, and tribal and excluded areas should contain full representation of the interests affected, and their function will be to report to the Union Constituent Assembly upon the list of Fundamental Rights, the clauses for the protection of minorities, and a scheme for the administration of the tribal and excluded areas, and to advise whether these rights should be incorporated in the Provincial, Group, or Union constitution.

21. His Excellency the Viceroy will forthwith request the Provincial Legislatures to proceed with the election of their representatives and the States to set up a Negotiating Committee. It is hoped that the process of constitution-making can proceed as rapidly as the complexities of the task permit so that the interim period may be as short as possible.

22. It will be necessary to negotiate a treaty between the Union

Constituent Assembly and the United Kingdom to provide for certain matters arising out of the transfer of power.

23. While the constitution-making proceeds, the administration of India has to be carried on. We attach the greatest importance therefore to the setting up at once of an interim Government having the support of the major political parties. It is essential during the interim period that there should be the maximum of co-operation in carrying through the difficult tasks that face the Government of India. Besides the heavy task of day-to-day administration, there is the grave danger of famine to be countered; there are decisions to be taken in many matters of post-war development which will have a far-reaching effect on India's future; and there are important international conferences in which India has to be represented. For all these purposes a Government having popular support is necessary. The Viceroy has already started discussions to this end, and hopes soon to form an interim Government in which all the portfolios, including that of War Member, will be held by Indian leaders having the full confidence of the people. The British Government, recognising the significance of the changes, will give the fullest measure of co-operation to the Government so formed in the accomplishment of its tasks of administration and in bringing about as rapid and smooth a transition as possible.

24. To the leaders and people of India who now have the opportunity of complete independence we would finally say this. We and our Government and countrymen hoped that it would be possible for the Indian people themselves to agree upon the method of framing the new constitution under which they will live. Despite the labours which we have shared with the Indian Parties, and the exercise of much patience and goodwill by all, this has not been possible. We therefore now lay before you proposals which, after listening to all sides and after much earnest thought, we trust will enable you to attain your independence in the shortest time and with the least danger of internal disturbance and conflict. These proposals may not, of course, completely satisfy all parties, but you will recognise with us that at this supreme moment in Indian history statesmanship demands mutual accommodation and we ask you to consider the alternative to acceptance of these proposals. After all the efforts which we and the Indian Parties have made together for agreement, we must state that in our view there is small hope of peaceful settlement by agreement of the Indian parties alone. The alternative would therefore be a grave danger of violence, chaos, and even civil war. The gravity and duration of such a disturbance cannot be foreseen; but it is certain that it would be a terrible disaster for many millions of men, women and children. This is a possibility which must be regarded with equal abhorrence by the Indian people, our own countrymen, and the world as a whole.

We therefore lay these proposals before you in the profound hope that they will be accepted and operated by you in the spirit of accommodation

and goodwill in which they are offered. We appeal to all who have the future good of India at heart to extend their vision beyond their own community or interest to the interests of the whole four hundred millions of the Indian people.

We hope that the new independent India may choose to be a member of the British Commonwealth. We hope in any event that you will remain in close and friendly association with our people. But these are matters for your own free choice. Whatever that choice may be we look forward with you to your ever-increasing prosperity among the greatest nations of the world, and to a future even more glorious than your past.

(II) SECRETARY OF STATE FOR INDIA'S BROADCAST  
May 16, 1946

The words which I shall speak to you are concerned with the future of a great people—the people of India. There is a passionate desire in the hearts of Indians expressed by the leaders of all their political parties for independence. His Majesty's Government and the British people as a whole are fully ready to accord this independence whether within or without the British Commonwealth and hope that out of it will spring a lasting and friendly association between our two peoples on a footing of complete equality.

Nearly two months ago I, as Secretary of State for India, and my two Cabinet colleagues, Sir Stafford Cripps and Mr. Alexander, were sent out by His Majesty's Government to India to assist the Viceroy in setting up in India the machinery by which Indians can devise their own constitution.

We were at once confronted with a major obstacle. The two principal parties—the Muslim League who won the great majority of the Muslim seats in the recent elections, and the Congress who won the majority of all the others—were opposed to one another as to the kind of machinery to be set up. The Muslim League claimed that British India should be divided into two completely separate sovereign states, and refused to take part in constitution-making unless this claim was conceded in advance. Congress insisted on one single united India.

During our stay in India we have tried by every means to secure such an accommodation between the parties as would enable constitution-making to proceed. Recently we were able to bring them together at Simla in a conference with ourselves, but though both sides were prepared to make substantial concessions, it was not found possible to reach complete agreement. We have therefore been compelled ourselves to seek for a solution which by securing the main objects of both parties will enable constitution-making machinery to be brought into immediate operation.

While we recognise the reality of the fear of the Muslim League that in a purely unitary India their community with its own culture and way of



life might become submerged in a majority Hindu rule, we do not accept the setting up of a separate Muslim sovereign state as a solution of the communal problem. "Pakistan", as the Muslim League would call their state, would not consist solely of Muslims; it would contain a substantial minority of other communities which would average over 40 per cent and in certain wide areas would even constitute a majority, as for instance in the city of Calcutta where the Muslims form less than one-third of the population. Moreover the complete separation of Pakistan from the rest of India would in our view gravely endanger the defence of the whole country by splitting the army into two and by preventing that defence in depth which is essential in modern war. We therefore do not suggest the adoption of this proposal.

Our own recommendations contemplate a constitution of three tiers at the top of which would be the Union of India with an executive and legislature empowered to deal with the essential subjects of external affairs, defence and communications and the finance necessary for these services. At the bottom would be the provinces which would have, apart from the subjects I have just named, complete autonomy. But we contemplate further that provinces will wish to unite together in groups to carry out, in common, services covering a wider area than that of a single province, and these groups may have, if they wish, legislatures and executives which in that event will be intermediate between those of the provinces and those of the Union.

On this basis which makes it possible for the Muslims to secure the advantages of a Pakistan without incurring the dangers inherent in the division of India we invite Indians of all parties to take part in framing a constitution. The Viceroy will accordingly summon to New Delhi representatives of British India who will be elected by the members of the provincial legislatures in such a way that as nearly as possible for each one million of the population there will be one representative, and that the proportion between the representatives of the main communities will be on the same basis.

After a preliminary meeting in common, these representatives of the provinces will divide themselves up into three sections the composition of which is laid down and which, if the provinces ultimately agree, will become the three Groups. These sections will decide upon provincial and Group matters. Subsequently they will re-unite to decide upon the constitution for the Union. After the first elections under the new constitution, provinces will be free to opt out of the Group into which they have been provisionally placed. We appreciate that this machinery does not of itself give any effective representation to other than the principal minorities and we are therefore providing for a special committee to be set up, in which the minorities will play a full part. The business of this committee will be to formulate fundamental and minority rights and to recommend their inclusion in the constitution at the appropriate level.

So far I have said nothing about the Indian States which comprise a third of the area of India and contain about one quarter of the whole population. These States at present are each separately governed and have individual relationships with the British Crown. There is general recognition that when British India attains independence the position of these States cannot remain unaffected, and it is anticipated that they will wish to take part in the constitution-making process and be represented in the all-India Union. It does not however lie within our province to decide these matters in advance as they will have to be the subject of negotiation with the States before action can be taken.

During the making of the constitution, the administration must be carried on and we attach therefore the greatest importance to the setting up at once of an interim Government having the support of the major political parties. The Viceroy has already started discussions to this end and he hopes to bring them shortly to a successful issue.

During the interim period the British Government, recognising the significance of the changes in the Government of India, will give the fullest measure of co-operation to the Government so formed in the accomplishment of its tasks of administration and in bringing about as rapid and smooth a transition as possible.

The essence of statecraft is to envisage the probable course of future events but no statesmen can be wise enough to frame a constitution which will adequately meet all the requirements of an unknown future. We may be confident therefore that the Indians on whom falls the responsibility of creating the initial constitution will give it a reasonable flexibility and will make provision for it to be revised and amended as required from time to time.

In this short talk you will not expect me to go into further details regarding our proposals which you can read in the statement which has been released for publication this evening. But in conclusion I will repeat and emphasise what to me is the fundamental issue. The future of India and how that future is inaugurated are matters of vital importance not only to India herself but to the whole world. If a great new sovereign state can come into being in a spirit of mutual goodwill both within and without India that of itself will be an outstanding contribution to world stability.

The Government and people of Britain are not only willing, they are anxious to play their full part in achieving this result. But the constitution for India has to be framed by Indians and worked by Indians when they have brought it into being. We appreciate to the full the difficulties which confront them in embarking on this task. We have done and we will continue to do all that lies in our power to help them to overcome these difficulties. But the responsibility and the opportunity is theirs and in their fulfilment of it we wish them godspeed.

(III) EXPOSITION OF THE CABINET MISSION'S STATEMENT BY  
STAFFORD CRIPPS AT A PRESS CONFERENCE  
May 16, 1946

You have heard two broadcasts on the Statement and you have the document before you. This evening the members of the Mission wanted an opportunity to meet you to give you a few words of explanation and tomorrow we shall be meeting you again to answer questions which you may have to put.

I will make a few remarks about the Statement while we are waiting for the Secretary of State to come from the Broadcasting Studio.

The first thing I want to point out is what the Statement does *not* purport to do. Let me remind you that this is not merely the Mission's statement, that is the statement of the four signatories, but is the statement of His Majesty's Government in the United Kingdom. Now the Statement does not purport to set out a new constitution for India. It is of no use asking us "How do you propose to do this or that?" The answer will be we don't propose to do anything as regards decision upon a constitution, that is not for us to decide.

What we have had to do is to lay down one or two broad principles of how the constitution might be constructed and recommend those as foundations to the Indian People. You will notice we use the word "recommend" with regard to the ultimate constitutional forms with which we deal.

You may quite fairly ask, "But why do you recommend anything; why not leave it to the Indians?" The answer is that we are most anxious to get all Indians into some constitution-making machinery as quickly as possible and the block at present is in this matter. We are therefore by this means trying to remove the block so that the constitution-making may start and progress freely and rapidly. We hope very earnestly that that will be the effect.

Now that it has been finally and absolutely decided that India is to have the complete independence she desires, whether within or without the British Commonwealth as she chooses, we are anxious that she shall have it as soon as possible and the soonest is when there is a new constitutional structure decided upon by the Indian People.

But of course we cannot just stand by and wait till that time comes. It is bound to take some time to reach that point of completion of the new constitutional structure.

So as you know, the Viceroy, in whose province Government-making primarily lies, has already started his talks with a view to the immediate setting up of a representative Indian Government. We hope that with the other issues out of the way on the basis of our Statement he will be able very rapidly to get that new Government representative of the main parties set up and in operation.

This matter of the Interim Government is of supreme importance because of the enormous tasks facing India at the moment. It is these great tasks and perhaps the greatest of them is to deal with the food situation, that makes it absolutely essential that we should between us arrange a smooth and efficient transition.

Nothing could be more fatal to the Indian People today in the face of dangers of famine than a breakdown of administration and communications anywhere in India and that is why we stress as we do the vital need for co-operation between all parties and communities including the British in this time of transition.

So much then for the vitally important point of the Interim Government. Some of you may wonder how soon this means that the British will sever their governmental connection with India—I hope that in any event we shall remain the closest friends when Indian freedom comes. Well, we certainly can't say that. Who can foretell how quickly constitutions can be hammered out? One thing is however absolutely certain and this is the quicker you start the quicker you will end and the sooner we shall be able to withdraw handing over the power to the New Governments of the Union, Provinces and, if it is so decided, of the Groups.

This brings me to what has been decided rather than recommended. It has been decided to make a start with the constitution-making right away. This does not mean a decision as to what the constitution shall finally be, that is for decision by the representatives of the Indian People. What it does mean is that the deadlock which has prevented a start on the process of constitution-making is to be removed once and for all.

The form in which we propose that the constitution-making bodies should be assembled is important for this reason. It permits of arriving at constitutions in the recommended form. It goes a little further than that in one respect. As we believe and hope that the two parties will come into this constitution-making on the basis of our recommendations it would not be fair to either of them if the fundamental basis which we recommend could be easily departed from. So we stipulate that a departure from that basis which is laid down in paragraph 15 of the Statement should only be made if a majority of both communities agree to it. That I think is eminently fair to both parties. It does not mean that no departure can be made from the recommendations, but it does mean that the special provisions I have mentioned will apply to such resolutions in the Constituent Assembly of the Union. That is one special provision as to particular majorities, the only other is in relation to matters raising any major communal issue when a similar rule will apply. All the rest is left to the free play of discussion and vote.

The question I am sure will occur to all of you and that is why we have named the three Sections of Provinces into which the Assembly will break up to formulate the Provincial and Group Constitutions.

There was a very good reason for this. First of all, of course, somehow or other those Groups had to be formed before they could proceed to their business. There were two ways of dealing with that matter. Either let the present provincial Governments opt themselves into Groups or—after seeing the constitutions produced—let the new Governments after the whole constitution-making is complete opt themselves out if they wish. We have chosen the second alternative for two reasons. First, because it follows the suggestion Congress put forward as regards the provinces and a single federation. They suggested that all the provinces should come in at the beginning but could opt out if they did not like the constitution when they had seen it. We think that this principle should apply to the groups. Second, the present legislatures are not truly representative of the whole population because of the effect of the communal award with its weightages. We have tried to get a scheme as near as possible to the full adult suffrage which would be fairest but which would take probably two years to work out—and no one believes that we could wait that length of time before starting on constitution-making. So we discard the present legislatures as decisive for the option and say let it be exercised when the first new elections have taken place when no doubt there will be a much fuller franchise and when, if necessary, the precise issue can be raised at the election. So the three sections will formulate the Provincial and Group constitutions and when that is done they work together with the States representatives to make the Union constitution. That is the final phase.

Now a word about the States. The Statement in paragraph 14 makes the position quite clear that paramountcy cannot be continued after the new constitution comes into operation, nor can it be handed over to anyone else. It isn't necessary for me to state—I am sure—that a contract or arrangement of this kind cannot be handed over to a third party without the consent of the States. They will therefore become wholly independent but they have expressed their wish to negotiate their way into the Union and that is a matter we leave to negotiation between the States and the British Indian parties.

There is one other important provision which I would like to stress as it is somewhat novel in constitution-making. We were met by the difficulty of how we could deal fairly with the smaller minorities, the tribal and the excluded areas. In any constitution-making body it would be quite impossible to give them a weightage which would secure for them any effective influence without gravely upsetting the balance between the major parties. To give them a tiny representation would be useless to them. So we decided that minorities would be dealt with really in a double way. The major minorities, such as the Hindus in Muslim provinces, and the Muslims in Hindu provinces, the Sikhs in the Punjab and the depressed classes who had considerable representation in a number of Provinces would be dealt with by proportional representation in the main construction of the constitution-

making bodies. But in order to give these minorities and particularly the smaller minorities like the Indian Christians and the Anglo-Indians and also the tribal representatives a better opportunity of influencing minority provisions, we have made provision for the setting up by the constitution-making body of an influential advisory Commission which will take the initiative in the preparation of the list of fundamental rights, the minority protection clauses and the proposals for the administration of tribal and excluded areas. This Commission will make its recommendations to the constitution-making body and will also suggest at which stage or stages in the constitution these provisions should be inserted, that is whether in the Union, Group or Provincial constitutions or in any two or more of them.

Now that I think gives you some picture of the main points with which we have dealt in our Statement.

There is only one other point that I want to stress before leaving the matter with you until to-morrow morning.

You will realise I am sure how terribly important is this moment of decision for the Indian People.

We are all agreed that we want a speedy conclusion of these matters, so far we have not been able all to agree upon how it should be brought about. We have done in this Statement what we believe to be best after two months of discussion and very hard work and in the light of all we have heard and studied. This is our firm opinion and we do not, of course, intend to start all the negotiations over again. We intend to get on with the job on the lines we have laid down. We ask the Indian People to give this Statement calm and careful consideration. I believe that the happiness of their future depends upon what they now do. If failing their own agreement, they will accept this method that we put forward of getting on with the making of a new constitution for India, we can between us make it a smooth transition and a rapid one but if the plan is not accepted no one can say how great will be the disturbance, or how acute and long the suffering that will be self-inflicted on the Indian People.

We are convinced that this Statement offers an honourable and peaceful method to all parties and if they will accept it we will do all that lies in our power to help forward the constitution-making so as to arrive at the speediest possible settlement.

Let no one doubt for one moment our intentions. We have not come to India and stayed here so long and worked so hard except to carry out what has long been the policy of the British Labour Party and that is to transfer power to the Indian People as quickly, as smoothly and as co-operatively as the difficulties of the process permit.

We hope from the bottom of our hearts that the Indian People will accept the Statement in the spirit of co-operation in which it has been drawn up, and that within a week or two the process of constitution-making may begin and the Interim Government may be formed.

(IV) PROCEEDINGS OF THE PRESS CONFERENCE HELD BY THE  
CABINET MISSION,  
May 17, 1946

*Secretary of State for India (Pethick-Lawrence)*: Gentleman, we had the pleasure and opportunity of meeting most of you last night. Sir Stafford Cripps gave you an address expounding the text of the statement which we had just issued. We have come this morning, quite willing, and so far as I am concerned, looking forward to being put questions as to the meaning of certain words in the statement. I should however like to make this clear that we, the three Cabinet Ministers are here and if you put us any veiled conundrums not as to the text of the statement but as to something that might happen and what we would do under all sorts of hypothetical considerations, then I am not prepared to give you an answer straightaway because those are matters quite clearly which ought to be most carefully considered by the Cabinet Mission, by the Viceroy and by H.M.G., with whose complete approval we issued the statement itself. It is not therefore for us three Cabinet Ministers to enlarge upon or to add anything to the statement which has already been issued. Having made that clear, in all sincerity and with the best of intention, I am prepared to clarify on my own responsibility and not as a complete pronouncement and enlargement of the statement already issued and I should be quite happy to apply myself to any questions that you may care to ask.

- Q. Will the Negotiating Committee mentioned on page 5 be part of the Constituent Assembly in the initial stage before the representatives of the States have been elected on an agreed basis?
- A. In the Preliminary meeting where all sections are meeting as one as described in sub-para (iv), quite clearly there will be no representatives of the States as such present because the machinery will not have been finalised for representing the States. Therefore in that preliminary meeting, it is proposed that this Negotiating Committee shall for the moment represent the States.
- Q. In the intervening period, will the Commander-in-Chief be subject to British Parliament as stated by Mr. Attlee and in the event of resistance to the terms of the award, will British forces be used to impose the award as suggested by Mr. Churchill. We take it that these decisions with regard to the composition of the Groups and of the Constituent Assembly and so on are not intended to be imposed by force, but they are proposals for rejection or acceptance by Indian opinion?
- A. The first point to note is that this is not an award. It is a recommendation as a certain basis of constitution and a decision to summon Indian representatives to make their own constitution and therefore quite clearly, there is no question whatever of the British enforcing an award

and under those circumstances the question of using British troops does not arise at all.

- Q. Supposing a Group decides not to come into the Union constituting the Assembly, what would be the position as far as that Group is concerned?
- A. It is purely a hypothetical questions what would happen if certain Provinces or Groups are not willing to co-operate in proceeding with this constitutional machinery. As I said at the beginning that is the sort of question which I cannot answer in any definite form. You cannot forejudge exactly what would be done in the event of people not co-operating. But there is every intention of proceeding with the constitution-making machinery as it is set out in this statement and if any group tries to put spanners in the wheel, I am not prepared at this stage to state what will be done.
- Q. Is it not a fact that so far as membership of the Constitution Assembly is concerned, it is not by groups, but the members of the Constituent Assembly will be individuals elected and that there is no such thing as a Group deciding to join the Constituent Assembly or not, it is individuals who will be elected and who in their individual capacity will come and join the Assembly?
- A. I can answer that question in the affirmative.
- Q. Is it not a fact that the constitution-making body will be composed of individuals elected from the various Provincial Legislative Assemblies and will not be composed of groups or anything else and will Lord Pethick-Lawrence say that that is a fact?
- A. I do not know whether you have heard the question. As I understand it, the answer is in the affirmative.
- Q. How do you propose to constitute the Negotiating Committee on behalf of the States? You have not indicated how that Negotiating Committee will be formed?
- A. That is a matter for discussion with the States. It will presumably be for the States in the first instance to put forward a form for that Negotiating Committee and until that is gone into, I do not think it is for us to get any further. When you get outside what is called British India, and come to the States, you are dealing with bodies that are to a very large extent independent and it is not for us in a document to say how a Negotiating Committee shall be formed.
- Q. Consultation between whom?
- A. Between all the parties concerned.
- Q. Presumably when you deal with negotiations with the States you must mean with the autocratic rulers concerned and not with the peoples of the States.
- A. The whole matter has got to be considered at the time. We are not in a position to decide this in advance and that is why this is left vague.



The object of our statement is to deal primarily with one issue and that is the communal issue which hitherto has prevented a constitution-making body being set up at all. About the middle of page 3 it is said "The precise form which their co-operation (*i.e.* the States) will take must be a matter for negotiation during the building up of the new constitutional structure". It by no means follows that it will be identical for all the States. We have not therefore dealt with the States in the same detail as the Provinces of British India in the paragraph which follows.

- Q. Supplementary to that, would you explain why it is that while a particular machinery is set up for the election of delegates to the Constituent Assembly from British India, no indication whatsoever is given about the representatives from the Indian States?
- A. I should have thought the answer was apparent in the document itself. So far as British India is concerned, we have been discussing this very matter with representatives of the two communities. After hearing all their points of view we had come to a specific conclusion and we have proposed in the document which we have issued—so far the States are concerned, we are not in the same position at all and for that reason we have proposed—that the method of representation of the States shall take place after negotiation instead of being laid down by us in a document of this kind.
- Q. In your recommendations you have said that the constitutions of the Union and the Groups should contain a provision whereby any province could call for a reconsideration of the terms of the constitution after an initial period of ten years. Does that include the right of secession?
- A. On page 3, para 15, sub-section 6, there is the provision that the constitutions of the Union and of the Groups should contain a provision whereby any province could by a majority vote of its Legislative Assembly call for a reconsideration of the terms of the constitution after an initial period of 10 years. The question is whether there is included in the words "call for a reconsideration of the terms of the constitution" any right to have secession considered? The answer is that if you revise the constitution quite clearly the whole basis of the constitution can be considered again. Therefore any province can ask for a revision of the constitution as far as I can see. When that revision is undertaken, all questions in the constitution are open to rediscussion.
- Q. Can the Constituent Assembly be regarded as sovereign in view of three points that are put forward, *viz.*,
- (1) Adult suffrage has been ruled out:
  - (2) British troops would continue to remain on the soil:
  - (3) The principle and the procedure of the constitution-making body have been laid down.

- A. First of all it is suggested that adult suffrage is ruled out. That of course is quite untrue. Adult suffrage can, if the constitution-making body so decide, be the essential basis of the new constitution. Our friend is confusing two quite separate things. It is perfectly open to the Constituent Assembly to decide in favour of adult suffrage. What is not proposed in our statement is that this Body which is going to make the constitution shall itself be elected by adult suffrage and the only reason why we lay that down is that otherwise you will get a delay of anything up to two years in the start of making the constitution. That was the first point.

The second point was can the Constituent Assembly be regarded as sovereign so long as British troops remain on Indian soil. I am not quite clear what the questioner means. Of course if the constitution, as it is framed by Indians, is for complete independence outside the British Commonwealth, naturally one of the first things that will happen will be that the British troops will immediately be withdrawn, except on the possible assumption that some arrangement might be made which would be entirely in the hands of Indians. The normal assumption is that British troops would go. But British troops of course will remain until the constitution is made, not with the view of forcing or determining any constitution on the constitution-making body, because they are primarily free to make such a constitution as they like on this basis. Therefore I do not think the question of British troops affects the issue at all.

The third question was whether, as we had laid down certain provisions, the constitution-making body or Constituent Assembly could be regarded in any sense as sovereign. Well, we only laid these conditions down because Indians did not come to an agreement among themselves. If it has been possible for the two Indian parties to come together to make a constitution, we should have made no stipulations of any kind. But when we got here, we found, what we suspected in advance, that a Constituent Assembly representing all parties could not be acceptable except on certain decisions taken in advance. We then asked the Indian parties whether they themselves by agreement would lay down certain decisions which would enable the Constituent Assembly to meet together and to function, and we tried our very best to get that agreed to and we went a considerable distance towards getting agreement on that point, but we did not get all the way, and therefore only because of that we suggested this basis and we made these recommendations, because it is only on those that we felt that we could get representatives of all parties to sit together and try and draw up a constitution. But even so, I would point to you that even that basis can be altered but it can only be altered by a separate majority of each party who desire to do so and the reason is this that these

representatives of different parties have never agreed to meet together on that basis. That is what we believe is the basis on which they will come together. If they do come together on that basis, it will mean that they will have accepted that basis, but they can still change it if by a majority of each party they desired to do so.

- Q. The question is under paragraph 15, sub-para 5: The phrase "Provinces should be free to form groups etc....." whether that means that in the initial stage provinces are free to stay out?
- A. Provinces automatically come into sections A, B or C which are set out in the statement and initially they are in the particular section to which they are elected in the statement and that particular section will decide whether a group shall be formed and what should be the constitution of the provinces in the section and the provinces and the groups. The right to opt out of the group formed by that section arises after the constitution has been framed and the first election to the Legislature has taken place after that constitution. It does not arise before that.
- Q. Can a Province, if it opts out of a certain section, go into another section?
- A. If you think that out, you will see, I think, that if you gave the right to a Province to opt into another section and that section did not want to receive it, it might get into an awkward situation. The answer to your question, therefore, whether a province can go into another section is not laid down in any way and it will be open to the Constituent Assembly to deal with that point in its proper setting.
- Q. With reference to your answer there is to my mind a very serious lacuna regarding the exercise of the option. You say here that a province is not allowed to exercise the option of either going in or getting out of a certain group in the initial stages by the vote of its present legislature. Secondly, you say that when the provinces have gone into A, B or C section they will be entitled as groups to vote in favour of provinces being free to form groups with executives and legislatures and each group should determine the provincial steps to be taken in common. Then the third stage arises, when a provincial legislature and executive and a group legislature and executive are formed, the provincial legislature can opt out of that group. My point is this. Supposing in such a system the grouping as such, not the province as such, decides by a majority vote to have no provincial legislature and no provincial executive but to have a group legislature and a group executive, automatically therefore if this resolution is carried, then the option that you envisage in 3 disappears so far as that province is concerned, because that province will have no legislature of its own under the new arrangement not by its own option but by a joint vote of the group, and therefore it will be deprived of the option of getting out, because

there will be no legislature to vote at all. There will be only the group legislature. Therefore in that contingency if there is a lacuna at all, would you give the option to the existing legislature to exercise that option in case any group decides to have no provincial legislature at all?

- Q. (*As summarised by Sir S. Cripps*): In view of the various provisions which are made as regards the provinces coming into groups and going out of groups and the powers of the groups of setting their constitutions, is it not possible that a group might settle a constitution for the group without any provincial legislature at all? In that case there would be no body to decide to opt out.
- A. I do congratulate the questioner upon his great ingenuity. He has tried to imagine something arising which would be exceedingly foolish on the part of those who were responsible for it and which might conceivably lead to an impasse. All I can say in the first place with regard to that is this: that in writing down the words in our statement we presumed and I think we had good reason to presume that, that the representatives from different parts of India who came together would be intelligent and wise people. I am not going to say for one moment that when those representatives came there and irrespective of all reason and all commonsense they wanted to tie the constitution up into such knots, so that it would not function, I certainly would not say that they could not do it but I think on a reasonable interpretation, we may assume that that will not be the case. Paragraph 15(3) says "all subjects other than the Union subjects and all residuary powers should vest in the Provinces" and I should have thought that that would rule out the possibility of a group or a section having met together and taking all the powers away from the provinces and in my broadcast last night in which I did attempt to explain to some extent what is in this document, I distinctly pointed out, if I am right, that there would be at the top the Union Legislature and Executive and at the bottom there would be the provincial legislature and executive and I cannot imagine a group or a section taking into its head to rule out the possibility of a provincial legislature and executive. I cannot imagine that after having agreed to come into it, the first thing a province would do is to get out of it. But, as I said, the real fact is that we assumed that they are intelligent and (I am quite sure) wise human beings coming together to do something sensible and not to meet with the express purpose of tying up the constitution into knots.
- Q. I am very glad about what you said, because I also do not envisage such a possibility. Since you have taken so much pains to leave the option there that possibility might have been envisaged. But I should be very glad if my interpretation of what you suggest is correct. You

say that subjects other than the Union subjects and residuary powers should vest in the provinces. I take it that should any such emergency arise the very fact of this clause 3 being there will be sufficient for the provincial representatives to refuse a grouping of that kind, because that would militate, I take it from you, against clause 3.

- A. I do not think we need go into it much further. If there were people so foolish as to make the mistake which our friend here suggests, I should imagine there are sufficient number of wise and sensible people who would see that things are put right. I think that an intelligent interpretation of all the clauses and sections in this proposal would give them ample ground to do so.
- Q. So far as Group C is concerned, it consists of Assam and Bengal, the former under a Congress ministry and the latter under a Muslim League ministry. Supposing the legislature which is Congress decides not to join that group, what would be the position?
- A. This statement puts the position thus, that these sections meet in the form in which it is intended in this statement and the right to opt out comes afterwards, for this reason that it is intended that the whole picture should be understood before the option is exercised. I may say to those of you who were present last night and I expect the great bulk of you were present, Sir Stafford Cripps, if I remember aright, did deal very comprehensively with this point. Possibly you would not wish him to repeat it all over again but if it is necessary I think he will be quite willing to do so.
- Q. Just as the Provinces have the right to opt out of the groups will they have the right to secede from the Indian Union, say within two years?
- A. They will not have the right to opt out in the period of two years but they will have a right to ask for a revision of the constitution at the end of ten years.
- Q. There being no mention in the document of the relationship between the Union Constituent Assembly and the Group Constituent Assembly, would the Group Constituent Assembly stand in the same relationship to the Union Constituent Assembly as the Negotiating Committee of the States?
- A. That is a matter of course which is entirely left open for discussion during the process of the constitution-making machinery. The fewer things we wanted to lay down we thought the better. We did not want to decide the constitution at all. We would have been glad to have made no provision about the constitution, because it is a matter for Indians to decide their constitution, not for us. The only reason why we have laid down anything at all in the nature of a basic form of the constitution is because it was brought home to us that unless we did so, the constitution-making machinery would not be set up at all and therefore the fewer the things that we have recommended in

advance, the better both from our point of view and from the point of view of India.

- Q. I thought you had made the point clear in your earlier reply. So far as the Union Constituent Assembly is concerned the group as such has no function. There the delegates will be in their individual capacity and therefore the question of the relationship between the Group and the Union Constituent Assembly ought not to arise.
- A. You must not confuse constitution and the Constituent Assembly. They come as representatives to the Constituent Assembly in the form in which it is set out here but they can make a constitution in any way they like, subject only to certain rules and the relationship between the group and the Union will be one of the matters which can be decided by the Constituent Assembly.
- Q. Will this regrouping take place before or after this Constituent Assembly?
- A. There is no regrouping. After the group have decided the constitution for the group and for the provinces within it and after the whole constitution has been passed and after the next elections have taken place, the provinces can then opt to get out of the group in which they have been placed.
- Q. The Constituent Assembly will draw its representatives from the provinces. When will the grouping of provinces take place—before or after?
- A. It really is all set out in this document. Para 19, sub-sections (vi) to (viii) make it perfectly clear.
- Q. It is said that the Union should have the power necessary to raise the finances required for the above subjects. Does it mean that it will be open to the Constituent Assembly to endow the Union with all powers of taxation, including customs, income-tax and other forms of taxation?
- A. Under this statement, it is left open to the Constituent Assembly to interpret the words relating to finance. But I would remind my friend that all this is subject to this one provision under para 19 (vii).
- Q. You have divided Indian nation into three categories, General, Muslim and Sikhs. Was this done in consultation with the Parties?
- A. This statement is our own statement, and it does not necessarily represent the opinion of any body in India, but it is put out after we have had discussions on all these matters with different Indians and it is our intention to reach the most likely method which will be accepted by the different parties.
- Q. Have Congress agreed to come under the term all other 'non-Muslims'?
- A. We have not put this out on the basis that anybody agreed, it is our own statement and stands on its own footing.
- Q. May I know if Nationalist Muslims, the Shias and others will be covered by this term 'Muslims'?
- A. It is not 'Muslim League', it is 'Muslim'.
- Q. In para 13 you have rejected the Congress suggestion to divide the

subjects into 'compulsory' and 'optional'. Do you contemplate the application of some rule of uniformity of subjects as well, because under the 1935 Act, each State has the right to have its own instrument of accession ?

- A. We think it undesirable at this stage to predicate precisely what the position of the States will be and in these circumstances we have not put into this document the relationship of the States after this is done. It will be a matter ultimately for the persons who go to the constitution-making body on behalf of the States to agree to the exact nature of the form in which they are in the Union of India.
- Q. In para 14, it is said : "It by no means follows that it will be identical for all the States". Does that imply only during the period of negotiations, while the constitutional structure is being built up or even afterwards?
- A. I am sure the questioner appreciates the enormous differences between one State and another. For instance in the case of Hyderabad you have a state with a very large population, and on the other hand you have very small tiny States which contain only very few people with revenue of less than a lakh of rupees. Obviously there must be complete difference in the approach to one State and another. If we are to go into all that in this document, if we are going to wait before all that has been settled before we go on with the constitution-making, we might have to wait for a very long period. It is for that reason we have purposely left the matter over and wanted to go on with the main job.
- Q. Would it be incumbent on every State to be represented through the Negotiating Committee or would some big States have the right to stand out and negotiate on a plane of complete equality?
- A. It is not for me to decide whether particular States should be represented or not. I naturally hope that the bulk of the States would take some share in negotiating general terms on which the States should come into the constitution. We have already had indications from the States, most of the principal States and others representing large bodies of other States that they have no desire to impede the progress of India towards self-government and independence and everyone of them want to co-operate. I am not speaking necessarily on behalf of all of them, but I believe it is the general wish of nearly all to co-operate.
- Q. The question arises out of this, whereas certain provinces are compulsorily grouped in certain groups, are the States also necessarily grouped under the Negotiating Committee or not?
- A. Our relations with the States are different from our relations with the provinces. We would have been very pleased if leaders of thought in British India, in every province had chosen themselves, but in default of their choice, in order to get on with the constitution-making machinery, we made certain recommendations and certain means of summoning

the constitution-making body for British India. We are not in the same position as regards the States, but we hope very much that they will come in and we have good ground for thinking so, but the precise method of bringing them in has not yet been decided upon.

- Q. What would be the status of the States in the interim period? Will they be as at present under the Political Department or will they be wholly independent?
- A. They remain as they are during the interim period, but obviously coming events cast their shadows before and naturally when you are working up a new constitution, things are constantly changing and during that interim period, constitution-making will go on and the States will presumably be taking their share in that constitution-making so that the whole picture will be presumably ready at the same time.
- Q. Is it realised that the influence of the Political Department is of such a character that it will not be helpful to the development of constitution-making?
- A. I have no reason to think so. I do not think I can go beyond that.
- Q. If the subjects of any State revolt for the establishment of self-government, will the Interim Central Government help the Ruler of that State to crush the revolt? Or will it help the nationalist cause?
- A. I am afraid that question is outside our present discussions, it is a matter for the Crown Representative. I am not here to over-ride the decisions of the Crown Representative or predicate precisely what they will be. That is part of the normal procedure and I should certainly not like to go into all that.
- Q. As far as representation in the Constituent Assembly of the Indian States is concerned, is it the intention that representation should reflect the strength of the different communities, Hindus and Muslims in the States, as they would be in British India?
- A. It is quite impossible to predicate in advance what is going to happen in States. As I have already indicated of course the hope is that the representatives who come from the States will represent the opinion in those States in those forms, but what precisely would be done, I cannot say. We have not reached the stage when the matter has been investigated, let alone decided.
- Q. I was not thinking of representatives reflecting Indian States opinion as much as representatives of Hindu and Muslim population. The idea seems to be to have representation of Hindus and Muslims on population basis in British India. I was wondering whether the same principle would be applied with regard to the population of the States? I have in mind the Hyderabad State where out of a population of 16 millions, the Muslims are only  $8\frac{1}{2}$  per cent? Is it the idea that representatives from Hyderabad will reflect the Hindu and Muslim population strengths in the Constituent Assembly?



- A. Obviously the question is one which will be taken into account in these negotiations that you are going to initiate. I certainly cannot tell you how those negotiations are going to be decided before they even start.
- Q. Arising out of the previous answers on the relations of Groups and Union, the position does not seem to be quite clear. It is not a hypothetical difficulty. If say, from section B which in fact means the Muslim League, a majority stood by the programme of the League, and were to proclaim themselves into a sovereign State, would that be possible under the constitutional arrangement, would you prevent that, and would the subsequent relation with the Union Centre be then a matter of negotiations in the same way as between the States and the Union?
- A. The questioner definitely states they will form a sovereign State outside the Union. The answer to that is it will be pre-judicial to the conditions under which all these people meet together for the purpose of making a constitution, therefore the constitution-making machinery would break down if it persisted in this. That would be contrary to the understanding on which these people are coming together. If they come together on the understanding with which we are inviting them, that presumes an honourable acceptance of the major premises and if they were to repudiate that later on, then it would be a breach of the understanding.
- Q. Am I right in assuming that the Paramountcy of the British Crown will be enforced until such time as the three sections of the constitution-making body come to an agreement regarding the Union Centre?
- A. Yes, that is quite right. Paramountcy will continue during the interim period, and when the interim period is over which cannot be before and will be almost immediately following upon what the questioner has put—then paramountcy comes to an end.
- Q. Arising out of the question you answered a little while ago regarding the Group B provinces not being entitled under the terms of the statement to declare themselves sovereign States and refusing to come to the Union, would it be open to Group B provinces to take that attitude at the time of the revision after ten years? Could they then revise the present constitution and come together as a sovereign State?
- A. The answer is that of course if the constitution is being revised, all sorts of proposals for its revision will be open to discussion. Whether they will be carried will be quite another question.
- Q. Arising out of Section 22, it will be necessary to negotiate a treaty between the Union Constituent Assembly and the United Kingdom to provide for certain matters arising out of the transfer of power. I want to know whether this treaty can be freely entered into after the constitution has been formed or after the Constituent Assembly is formed? Could you throw more light on what those certain matters arising out of the transfer of power will be and whether this treaty will be with the

All India Union, which means also the Indian States, or with British India and there will be separate treaties with Indian States?

- A. The answer to the first question of time is quite clear. It will be when the constitution is ready. Of course it will be negotiated in the intervening period in order to prevent delay. With regard to the matters it contains I should have thought that it was obvious that there would be questions of finance and foreign relationships, and clearly any body that is becoming a sovereign state, if it is entirely outside the British Commonwealth, then a sovereign independent State will have a number of matters which it will want to settle with a country which has been so closely associated with it. It will settle those on an entirely equal footing. With regard to the third point, on the assumption that there emerges from this constitutional machinery a constitution with a Union Centre quite clearly it will be with that Union with which the Treaty will have to be negotiated and not with one part of it.

Q. Did you consider the question of putting a time limit on the formation of these different constitutions and further whether you could give any estimate? If you did not, what time do you think will be occupied by the various stages?

- A. Of course we did consider whether we should put a time limit on this thing and we came to the conclusion that it was not for us to decide. It entirely rests with the Indians who are going to make the constitution. The making of a constitution is a very difficult thing and it entirely depends how many people want to discuss it and how far there are preparations in advance. I do not think it is for us to put a time-limit on what Indians are proposing to do. If Indians like to make this decision so they can do it if they choose. In section 19, subsection 4, it says : "a preliminary meeting will be held in which the general business will be decided." If Indians want to put a time-limit on their labours that is for them to decide.

As to whether we have any estimate of time, I answer no. It depends entirely on details and how many people want to talk. I know in the House of Commons it all depends on how many people want to discuss the matter whether it can be agreed to or not. Sometimes where it looks that a question can be settled in ten minutes, it takes ten hours and where a question is expected to take ten hours it is decided in ten minutes. But there is quite a lot of very important matters which affect the whole future of India to be discussed and quite obviously you cannot rush them beyond a point. So far as we are concerned, the quicker the thing is done, the better we shall feel.

- Q. In view of the intolerable political conditions in the Indian territory ruled by the Portuguese and the French in Pondicherry, what will be the attitude of Great Britain in view of our long-standing friendship with Portugal and France in case the Union Legislature were to serve

the "Quit India" order upon them? I want to know whether in view of your long-standing friendship with France and Portugal, will you eliminate them or keep quiet?

- A. It is of the essence of our scheme that foreign affairs shall be a Union subject and that being so, it will be quite clearly for the Union Government to deal with this matter when it comes into being, and that being so I do not think we can say anything in advance in regard to it.
- Q. During the interim period what will be the position of the India Office and presumably the Secretary of State?
- A. As I said before, coming events cast their shadows before and already I can tell you, before this statement was made, many months ago, the India Office has already been proceeding on the assumption that the time would come when great changes would be made in India and the whole position of the India Office would be altered. Naturally if this constitution-making machinery goes on, that process will be rapidly accelerated and the India Office will be starting to make the transfers which at the end of the period will either be complete or will certainly be arranged to be wound up. You have to remember that the India Office may do a great many things you do not like. But quite apart from all that, it is an enormous administrative machine and it is going to be part of the new set-up in India. All that vast administrative machine shall be at the disposal of the new constitution in India and the transfer will have to be carried through.

Sir Stafford Cripps points out to me that I have not made it clear.

There are an immense number of files dealing with all sorts of matters which are subjects of the administration. Now the new Government in India will want to have those files and they will want to be able to handle the administration of India not from scratch but to be able to carry forward the administration and that there should be no break or high hedges and difficulties. I say that transference will not only begin from today. But it has been going on for some time and it will be carried on at a greater rate when this constitutional machinery is set up and it will reach its final stage when the new Government actually comes into being.

When it came to be examined it was found that there was no point in changing the name so long as the substance of things remained. It was simple to leave it where it was but when the substance changes, then you may be quite sure that the India Office will gradually with its apparatus be transferred to the control of the new Government.

- Q. While the interim government is functioning will it function as a *de facto* independent government and within that period the India Office cease to function in fact if not in law?
- A. I do not think that could be so. If you think it out carefully you could not make that change completely at the present time but you may be

perfectly sure that all that will be taken into account.

- Q. During the interim period will the Viceroy exercise his veto in the same manner as he is entitled to exercise now or will it be subject to the same convention which applies in the provinces today by mutual consent but not within the constitution between the provincial Governor and his ministers?
- A. That is a question really for the Viceroy. The Viceroy is negotiating at the present time with the various parties on the assumption that the constitution-making body is to be set up and I do not propose to express any views on what is primarily the Viceroy's function.
- Q. Under paragraph 19 where the table of representation is given of the number of representatives to be elected from each province, does the title "general" include European members of the present Assembly?
- A. The answer of course is yes. You must remember that the basis now is population and in view of the small number of the European population they would not figure very largely in the result. They will take part in proportional representation in the election.
- Q. In Bengal they have 25 votes. In the grouping of Bengal and Assam they will have an almost decisive influence.
- A. The position is this that when each section—General, Muslim or Sikhs, as the case may be—elect their own representatives, it would not have any effect at all. They will be in the group which is electing in Bengal.
- Q. On the question of the States, in the event of some one State or more States choosing to remain outside the Indian Union and continue their present relationship with the British Government, what happens then?
- A. I cannot predicate what will take place but it seems to me to be a very difficult relationship. In paragraph 14 it is stated "It is quite clear that with the attainment of independence by British India, whether inside or outside the British Commonwealth, the relationship which has hitherto existed between the Rulers of the States and the British Crown will no longer be possible. Paramountcy can neither be retained by the British Crown nor transferred to the new Government. This fact has been fully recognised by those whom we interviewed from the States." What precisely will happen under those circumstances I cannot predicate but those are the facts. That really is the answer to your question.
- Q. Then conceivably they might remain as independent countries?
- A. It may be conceivable but of course this paragraph goes on to say : "They have at the same time assured us that the States are ready and willing to co-operate in the new development of India. The precise form which their co-operation will take must be a matter for negotiation during the building up of the new constitutional structure." I cannot go beyond that. The existing relationship quite clearly being altered, paramountcy does not remain. They have expressed their intention to co-operate: They are willing to negotiate.

- Q. If you can make these mandatory recommendations for these provinces do you want us to believe that you have no power to make similar recommendations about the States?
- A. The answer is that our relationship with the Provinces and States are quite different. The second answer is that we are not making mandatory provisions for the provinces at all. What we are doing is, we are endeavouring to set up a constitution-making machinery for all the provinces. If the Indians concerned had been willing to set up their own constitution-making machinery we should have said nothing about it at all. It is only with the intention of bringing them together that we have put forward this statement. The position with regard to the States is quite different. Our relationship with the States is quite different and the best way of securing their cooperation, we believed, was in the form in which we have set it out in this document.
- Q. Are you aware of the discontent among the States' peoples that none of their representatives had been invited to meet the Mission?
- A. There are a great many things going on in India about which a great many people are not happy. I do not think I would go beyond that. It is just for all those reasons that this matter will have to be dealt with carefully and we thought that it would be better not to make any rigid proposals with regard to the States. I do not think it would have been in the interests either of the people in the States or the people in the provinces. I am quite satisfied that the rather vague and loose way in which we propose to deal with it is at the moment the method which is most likely to bring in results which all of us desire.
- Q. Have you examined and excluded Currency from the list of Union subjects? If so on what grounds?
- A. No. I do not think we can explain exactly whether we have considered this, that or the other question and excluded it. Currency is a question which can be discussed if necessary in the constitution-making body, if it is thought that that was a matter which can be reasonably included. If all the sections think so, there is no reason why it should not be included. We do not want to impose it. It is a matter for Indians to decide.
- Q. If the constitution-making body decides preliminary to proceeding in their work that the British troops should be withdrawn from India, will they be withdrawn?
- A. I think that is a misunderstanding of the situation. Someone must be responsible for law and order in a country. We are anxious to hand over that responsibility in so far as it remains at the earliest opportunity to a fully constituted Indian Government. There is no fully constituted Indian Government now. As a matter of fact the Indian governments in the provinces are really responsible for law and order but the ultimate responsibility for law and order rests in the Government of India and

we are anxious to transfer that as early as possible to a properly constituted government. When that time comes we will make that transfer.

- Q. Do you mean to say that no law and order can be maintained in India without British troops?
- A. I won't make any postulate of that kind. I would only say in all countries the final sanction for law and order is the force of the Government and so long as that responsibility rests with us we cannot dispense with the means which enables us to carry it through. It is not my wish that it should be used. It is our desire that at the earliest possible moment when the new government is set up different arrangements should be made.
- Q. In the interim period would Lord Wavell be able to change the constitutional position of the present Executive Council?
- A. The present constitutional position of the Executive Council is laid down by statute. Quite clearly Lord Wavell cannot change that and, as I have already said, the whole constitutional machinery rests primarily with him. But as to the final statutory and legal position that can only be changed by an Act of Parliament and personally I think it would be unwise to start with that now when we are so very near the real final change, which is the really important thing, namely the complete transference of power from our country to an Independent Indian Government.
- Q. What will be the next stage of activity of the Cabinet Delegation?
- A. The first thing is to get this plan accepted by the two main communities in India. That will be carried through as speedily as possible.
- Q. Do you want it to be accepted by the two main communities or parties?
- A. Both.
- Q. In Section B of para 19(i) in the Punjab there are 16 Muslim seats. Would those be voted for by all the Muslims together or will they be allocated separately between the different parties amongst the Muslims?
- A. They are voted for by all the Muslims together but the election is by the method of proportional representation with the single transferable vote.
- Q. In view of paragraph 15(6) does it mean that the Union constitution will only be inviolable for ten years?
- A. What it does mean is that the Constituent Assembly will lay down provisions enabling the constitution and there would be a revision of the constitution. This is in accordance with what has taken place in a great many other cases in the world and there must be some provision for revision. Precisely what the conditions of revision are will be a matter for the Constituent Assembly to decide. I do not think I can go any further into that. What the basis of revision will be after a period of years and the precise terms thereof, how that revision shall

- be gone into will no doubt be decided by the Constituent Assembly.
- Q. Can the provincial assembly elect people outside its membership?
- A. Yes, that is not excluded by the terms of the statement.
- Q. Can the representatives referred to in para 19(i) be from any part of India or from any legislature or should the representatives be confined to the voters of the respective provinces only? In other words, can the representative under para 19(i) be any Indian citizen or must be from any particular category?
- A. I can only go by the text of the document. "There shall be elected by each provincial legislative assembly", it does not say, 'from among its numbers'.
- Q. Did you consider the desirability of appointing a boundary commission?
- A. As I explained to you, all sorts of things were considered which of course do not figure in this document.
- Q. What is the position of the minority commission with regard to the Constituent Assembly, and in case of clash of opinions, whose voice will prevail?
- A. You cannot appoint a minority commission assuming it is composed largely of minorities and give it absolute rights as against the main constitution-making body. We have every reason to hope that the minority committee formed of responsible people will make representations which I should have thought would be in the interest of all parties and would carry great weight with the constitution-making body.
- Q. Is this statement final or will you entertain suggestions made by various parties? Is this document final or is it intended starting negotiations all over again?
- A. We do not propose to modify this document because if we start modifying it in favour of one set of people, it will almost be unfair to another set of people. If after discussing it all parties agree to come in and they agree to some small modifications, then I do not say we shall absolutely stick to the last word in the document. But it is not a document to be modified in favour of "A" to the disadvantage of "B". I am not talking of Groups.
- Q. Is participation in the interim government subject to the acceptance of the proposals or is it independent?
- A. Unless you have a constitutional machinery functioning I cannot see any question of interim government. It is not interim government, it is a change of government and essentially the interim government is that which functions in the interim while the constitutional machinery is in operation. That is how I interpret the term 'interim government'.
- (Here end oral questions)*

## WRITTEN QUESTIONS

- Q. What will be the composition of the various parties in the interim

- government? What will be the percentage of Muslims?
- A. As I have already explained, the question of interim government is not for us to decide. It is primarily a question for the Viceroy and I do not propose to intervene in his sphere.
- Q. Can a province opt out of a Group at the appropriate time and join another group which may be willing to take it in? For instance, could Bihar opt out of Group A and join Group B, if the latter were willing?
- A. On a general point, I have already answered it.
- Q. If after the constitution-making machinery has been set up as laid down in the statement, the majority proceed to disregard some of the conditions and checks prescribed, who will intervene?
- A. I have already answered that. The assumption is that if people accept this document and enter on the basis of it, they enter as honourable people willing to carry out the terms. Of course if you are going to deal with dishonourable people who break their words, then we cannot proceed with any job. We proceed on the assumption that the parties who come into the scheme behave honourably.
- Q. Is Mr. Churchill correct in suggesting that what he calls the shifting of the onus of deciding the future constitution from Indians to H.M.G. is an unfortunate step going beyond the understood purpose and mandate of the Mission?
- A. There has been no shifting. If we could arrange by agreement between parties in India the basis of the constitution under which they would have to come together in the constitution-making body, nothing would have pleased us better. In default of that, we thought it our duty to make certain recommendations on the basis of which they come together. The Viceroy is prepared to summon the constitution-making body on that basis and we believe this is in accord with the wishes not only of a majority of Indians but a majority of our own people at home.
- Q. Mr. Churchill complains that the sentence relating to States treaties and paramountcy is obscure. Can you clear up the alleged obscurity?
- A. I have endeavoured to do that in answer to a great number of questions. I do not think there is any obscurity to clear up. I hope I have succeeded in clearing up all obscurities.
- Q. What legislative steps will be required for setting up the interim government, the creation of the new constitution and abrogation of the King's title of Emperor of India?
- A. So far as the first two are concerned, no legislative steps are necessary at all. They can all be done forthwith. So far as the ultimate step is concerned, having regard to the matter of constitutional law, I could not answer off hand, so far as I know speaking without consideration. I am not at all sure what precise statute will be required for it. But I should not like that to be taken as final. They will of course naturally have to be accorded sanction. There is to be some definite step taken



with the consent of H.M. the King. But I do not contemplate any difficulty about that at all as the present Labour Government have a considerable working majority in the House of Commons and I do not imagine that any serious difficulties will be experienced in carrying things through when they have been agreed to.

- Q. Do you agree with Mr. Churchill when he implies that you have laboured not to gain an Empire but to cast it away?
- A. I can only say this that what we are doing is in accord with the views that have been expressed all through by really great statesmen in our country and nothing can redound more to the highest traditions of liberty which prevail in my country than if as a result of our labours, we have in the years to come a sovereign country here in India whose relationship with ours is one of friendliness and equality in the days to come.

I hope we have satisfied your appetite for information, and I think you will agree that I have not shirked any of the issues and that I have tried my best to answer your questions.

*(The Conference then terminated.)*

#### (V) VICEROY'S (WAVELL'S) BROADCAST

May 17, 1946

I speak to the people of India at the most critical hour of India's history. The statement of the Cabinet Delegation containing their recommendations has now been before you for twenty-four hours. It is a blue-print for freedom, an outline of which your representatives have to fill in the details and construct the building.

You will have studied the statement, most of you, and may perhaps already have formed your opinion on it. If you think that it shows a path to reach the summit at which you have been aiming for so long, the independence of India, I am sure you will be eager to take it. If you should have formed the view—I hope you have not—that there is no passage that way, I hope that you will study again the route indicated to you, and see whether the difficulties in the path—and we know they are formidable—cannot be surmounted by skill and patience and boldness.

I can assure you of this, that very much hard work, very much earnest study, very much anxious thought, and all the goodwill and sincerity at our command have gone to the making of these recommendations. We would much have preferred that the Indian leaders should have themselves reached agreement on the course to be followed, and we have done our best to persuade them; but it has not been found possible, in spite of concessions on both sides which at one time promised results.

These proposals put before you are obviously not those that any one of the parties will have chosen if left to itself; but I do believe that they offer

a reasonable and workable basis on which to found India's future constitution. They preserve the essential unity of India which is threatened by the dispute between the two major communities; and in especial they remove the danger of the disruption of that great fellowship the Indian Army, to which India already owes so much and on whose strength, unity and efficiency her future security will depend. They offer to the Muslim community the right to direct their own essential interests, their religion, their education, their culture, their economic and other concerns in their own way and to their own best advantage. To another great community, the Sikhs, they preserve the unity of their homeland, the Punjab, in which they have played and can still play so important and influential a part. They provide, in the Special Committee which forms a feature of the constitution-making machinery, the best chance for the smaller minorities to make their needs known and to secure protection for their interests. They seek to arrange a means for the Indian States, great and small, to enter by negotiation into the polity of a united India. They offer to India the prospect of peace—a peace from party strife, the peace so needed for all the constructive work there is to do. And they give you the opportunity of complete independence so soon as the Constituent Assembly has completed its labours.

I would like to emphasize the constructive work to be done. If you can agree to accept the proposals in the Statement as a reasonable basis on which to work out your constitution, then we are able at once to concentrate all the best efforts and abilities in India on the short-term problems that are so urgent. You know them well—the immediate danger of famine to be countered, and measures taken to provide more food for everyone in future years; the health of India to be remedied; great schemes of wider education to be initiated; roads to be built and improved; and much else to be done to raise the standard of living of the common man. There are also great schemes in hand to control India's water supplies, to extend irrigation, to provide power, to prevent floods; there are factories to be built and new industries to be started; while in the outside world India has to take her place in international bodies, in which her representatives have already established a considerable reputation.

It is therefore my earnest desire that in these critical times ahead, in the interim period while the new constitution is being built, the Government of India should be in the hands of the ablest of India's leaders, men recognised as such by the Indian people, whom they will trust to further their interests and bring them to their goal.

As said in the Statement, I am charged with the responsibility to form such a Government as soon as possible, to direct the affairs of British India in the interim period. There will be no doubt in the minds of anyone, I hope, how great a step forward this will be on India's road to self-government. It will be a purely Indian Government except for its head, the Governor-General; and will include, if I can get the men I want, recognised

leaders of the main Indian parties, whose influence, ability and desire to serve India are unquestioned.

Such a Government must have a profound influence and power not only in India, but also in the outside world. Some of the best ability in India, which has hitherto been spent in opposition, can be harnessed to constructive work. These men can be the architects of the new India.

No constitution and no form of Government can work satisfactorily without goodwill; with goodwill and determination to succeed even an apparently illogical arrangement can be made to work. In the complex situation that faces us there are four main parties: the British; the two main parties in British India, Hindus and Muslims; and the Indian States. From all of them very considerable change of their present outlook will be required as a contribution to the general good, if this great experiment is to succeed. To make concession in ideas and principles is a hard thing and not easily palatable. It requires some greatness of mind to recognise the necessity, much greatness of spirit to make the concession. I am sure that this will not be found wanting in India, as I think you will admit that it has not been found wanting in the British people in this offer.

I wonder whether you realise that this is the greatest and most momentous experiment in Government in the whole history of the world—a new constitution to control the destiny of 400,000,000 people. A grave responsibility indeed on all of us who are privileged to assist in making it.

Lastly, I must emphasise the seriousness of the choice before you. It is the choice between peaceful construction or the disorder of civil strife, between co-operation or disunity, between ordered progress or confusion. I am sure you will not hesitate in your choice for co-operation.

May I end with some words which were quoted by one great man to another at a crisis of the late war, and may well be applied to India at this crisis :

“Thou too, sail on, O Ship of State,  
Sail on, O Union, strong and great :  
Humanity with all its fears  
With all the hopes of future years,  
Is hanging breathless on thy fate.”

CABINET MISSION'S MEMORANDUM ON STATES  
TREATIES AND PARAMOUNTCY

May 12/22, 1946

*[In this Memorandum, the Cabinet Mission explained that with the attainment of independence by British India and the consequent lapse of 'paramountcy'—a term commonly used to define the relationship between the Indian (Princely) States and the British Crown—existing political arrangements between the States and British India would come to an end; the void would have to be filled by negotiations between the States and 'the Succession Government or Governments in British India'. The Mission also suggested that, where necessary, the States might introduce suitable administrative and political reforms so that they could make their contribution to the framing of the new constitutional structure for India and take their due place in it.]*

*The Memorandum was presented by the Mission to the Chancellor of the Chamber of Princes on May 12, 1946, but was actually issued for publication on May 22, when, in an explanatory note, the Mission clarified that the Memorandum 'was drawn up before the Mission began its discussions with Party leaders and represented the substance of what they communicated to representatives of the States at their first interviews with the Mission'. This was the explanation of the use of the words 'successor Government or Governments in British India', an expression 'which would not of course have been used' after the issue of the Mission's Statement of May 16.]*

PRIOR TO the recent statement of the British Prime Minister in the House of Commons an assurance was given to the Princes that there was no intention on the part of the Crown to initiate any change in their relationship with the Crown or the rights guaranteed by their treaties and engagements without their consent. It was at the same time stated that the Princes' consent to any changes which might emerge as a result of negotiations would not unreasonably be withheld. The Chamber of Princes has since confirmed that the Indian States fully share the general desire in the country for the immediate attainment by India of her full stature. His Majesty's Government have now declared that if the Succession Government or Governments in British India desire independence, no obstacle would be placed in their

way. The effect of these announcements is that all those concerned with the future of India wish her to attain a position of independence within or without the British Commonwealth. The Delegation have come here to assist in resolving the difficulties which stand in the way of India fulfilling this wish.

2. During the interim period which must elapse before the coming into operation of a new constitutional structure under which British India will be independent or fully self-governing, paramountcy will remain in operation. But the British Government could not and will not in any circumstances transfer paramountcy to an Indian Government.

3. In the meanwhile, the Indian States are in a position to play an important part in the formulation of the new constitutional structure for India, and His Majesty's Government have been informed by the Indian States that they desire, in their own interests and in the interests of India as a whole, both to make their contribution to the framing of the structure, and to take their due place in it when it is completed. In order to facilitate this they will doubtless strengthen their position by doing everything possible to ensure that their administrations conform to the highest standard. Where adequate standards cannot be achieved within the existing resources of the State they will no doubt arrange in suitable cases to form or join administrative units large enough to enable them to be fitted into the constitutional structure. It will also strengthen the position of States during this formative period if the various Governments which have not already done so take active steps to place themselves in close and constant touch with public opinion in their State by means of representative institutions.

4. During the interim period it will be necessary for the States to conduct negotiations with British India in regard to the future regulation of matters of common concern, especially in the economic and financial field. Such negotiations, which will be necessary whether the States desire to participate in the new Indian Constitutional structure or not, will occupy a considerable period of time, and since some of these negotiations may well be incomplete when the new structure comes into being, it will, in order to avoid administrative difficulties, be necessary to arrive at an understanding between the States and those likely to control the succession Government or Governments that for a period of time the then existing arrangements as to these matters of common concern should continue until the new arrangements are completed. In this matter, the British Government and the Crown Representative will lend such assistance as they can should it be so desired.

5. When a new fully self-governing or independent Government or Governments come into being in British India, His Majesty's Government's influence with these Governments will not be such as to enable them to carry out the obligations of paramountcy. Moreover, they cannot contemplate that British troops would be retained in India for this purpose. Thus, as a logical sequence and in view of the desires expressed to them on behalf of the Indian States, His Majesty's Government will cease to exercise the

powers of paramountcy. This means that the rights of the States which flow from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the paramount power will return to the States. Political arrangements between the States on the one side and the British Crown and British India on the other will thus be brought to an end. The void will have to be filled either by the States entering into a federal relationship with the successor Government or Governments in British India, or failing this, entering into particular political arrangements with it or them.

## CONGRESS AND LEAGUE REACTIONS TO THE CABINET MISSION'S PLAN May 20-24, 1946

*[The Indian National Congress found the Cabinet Mission's Plan unsatisfactory in many respects; especially in regard to the grouping of Provinces and the right of the European members of the Provincial Assemblies to take part in the elections to the Constituent Assembly. On the question of grouping, Congress President Azad pointed out in a letter to the Secretary of State that while the basic provision [paragraph 15, clause (5)] of the Statement of May 16 gave a Province full freedom in the matter, a subsequent provision [paragraph 19(v)] introduced a certain measure of compulsion which clearly infringed Provincial autonomy. Reiterating the position in a resolution on May 24, the Congress Working Committee interpreted paragraph 15 to mean that at the very outset the respective Provinces would be free to decide whether or not to belong to the Section in which they were placed. The issue of European vote had arisen because of the weightage given to Europeans in Provincial Legislatures, particularly in Assam and Bengal. The Congress Working Committee desired that the population basis recommended by the Cabinet Mission for elections to the Constituent Assembly should apply to Europeans as well. On behalf of the Muslim League, its President, M. A. Jinnah, regretted that the Mission had rejected the demand for Pakistan. He held that the Mission's Statement contained several lacunae and had failed, in many respects, to meet even the minimum terms of the League. The relevant correspondence between Azad and the Secretary of State, Jinnah's statement and the Congress Working Committee resolution are reproduced below.]*

### (I) LETTER FROM AZAD TO THE SECRETARY OF STATE May 20, 1946

MY COMMITTEE HAVE carefully considered the statement issued by the Cabinet Delegation on May 16th, and they have seen Gandhiji after the interviews he has had with you and Sir Stafford Cripps. There are certain matters about which I have been asked to write to you.

As we understand the statement, it contains certain recommendations, and procedure for the election and functioning of the Constituent Assembly.

The Assembly itself, when formed, will in my committee's opinion, be a sovereign body for the purpose of drafting the constitution unhindered by any external authority, as well as for entering into a Treaty. Further that it will be open to the Assembly to vary in any way it likes the recommendations and the procedure suggested by the Cabinet Delegation. The Constituent Assembly being a sovereign body for the purposes of the constitution, its final decisions will automatically take effect.

As you are aware some recommendations have been made in your statement which are contrary to the Congress stand as it was taken at the Simla Conference and elsewhere. Naturally we shall try to get the Assembly to remove what we consider defects in the recommendations. For this purpose we shall endeavour to educate the country and the Constituent Assembly.

There is one matter in which my committee were pleased to hear Gandhiji say that you were trying to see that the European members in the various provincial assemblies, particularly Bengal and Assam, would neither offer themselves as candidates nor vote for the election of delegates to the Constituent Assembly.

No provision has been made for the election of a representative from British Baluchistan. So far as we know there is no elected assembly or any other kind of chamber which might select such a representative. One individual may not make much of a difference in the Constituent Assembly, but it would make a difference if such an individual speaks for a whole province which he really does not represent in any way. It is far better not to have representation at all than to have this kind of representation which will mislead and which may decide the fate of Baluchistan contrary to the wishes of its inhabitants. If any kind of popular representation can be arranged, we would welcome it. My committee were pleased, therefore, to hear Gandhiji say that you are likely to include Baluchistan within the scope of the Advisory Committee's work.

In your recommendations for the basic form of the constitution (page 3 of the printed draft, No. 5)\* you state that provinces should be free to form groups with executives and legislatures and each group could determine the provincial subjects to be taken in common. Just previous to this you state that all subjects other than the Union subjects and all residuary powers should vest in the provinces. Later on in the statement, however, on page 5, you state that the provincial representatives to the Constituent Assembly will divide up into three sections and "these sections shall proceed to settle the provincial constitutions for the provinces in each section and shall also decide whether any group constitution shall be set up for these provinces." There appears to us to be a marked discrepancy in these two separate provisions. The basic provision gives full autonomy to a province

\*This refers to paragraph 15 of the Statement of the Cabinet Delegation of 16th May, 1946.



to do what it likes and subsequently there appears to be a certain compulsion in the matter which clearly infringes that autonomy. It is true that at a later stage the provinces can opt out of any group. In any event it is not clear how a province or its representatives can be compelled to do something which they do not want to do. A provincial Assembly may give a mandate to its representatives not to enter any group or a particular group or section. As sections B and C have been formed it is obvious that one province will play a dominating role in the section, the Punjab in section B and Bengal in section C. It is conceivable that this dominating province may frame a provincial constitution entirely against the wishes of Sind or the North-West Frontier Province or Assam. It may even conceivably lay down rules, for elections and otherwise, thereby nullifying the provision for a province to opt out of a group. Such could never be the intention as it would be repugnant to the basic principles and policy of the scheme itself.

The question of the Indian States has been left vague and, therefore, I need not say much about it at this stage. But it is clear that State representatives who come into the Constituent Assembly must do so more or less in the same way as the representatives of the provinces. The Constituent Assembly cannot be formed of entirely disparate elements.

I have dealt above with some points arising out of your statement. Possibly some of them can be cleared up by you and the defects removed. The principal point, however, is, as stated above, that we look upon this Constituent Assembly as a sovereign body which can decide as it chooses in regard to any matter before it and can give effect to its decision. The only limitation we recognise is that in regard to certain major communal issues the decision should be by a majority of each of the two major communities. We shall try to approach the public and the members of the Constituent Assembly with our own proposals for removing any defects in the recommendations made by you.

Gandhiji has informed my committee that you contemplate that British troops will remain in India till after the establishment of the Government in accordance with the instrument produced by the Constituent Assembly. My committee feel that the presence of foreign troops in India will be a negation of India's independence.

India should be considered to be independent in fact from the moment that the National Provisional Government is established.

I shall be grateful to have an early reply so that my committee may come to a decision in regard to your statement.

(II) LETTER FROM THE SECRETARY OF STATE TO AZAD

May 22, 1946

The Delegation have considered your letter of 20th May and feel that the

best way to answer it is that they should make their general position quite clear to you. Since the Indian leaders after prolonged discussion failed to arrive at an agreement, the Delegation have put forward their recommendations as the nearest approach to reconciling the views of the two main parties. The scheme therefore stands as a whole and can only succeed if it is accepted and worked in a spirit of compromise and co-operation.

You are aware of the reasons for the grouping of the Provinces, and this is an essential feature of the scheme which can only be modified by agreement between the two parties.

There are two further points which we think we should mention. First, in your letter you describe the Constituent Assembly as a sovereign body, the final decisions of which will automatically take effect. We think the authority and the functions of the Constituent Assembly and the procedure which it is intended to follow are clear from the statements. Once the Constituent Assembly is formed and working on this basis, there is naturally no intention to interfere with its discretion or to question its decisions. When the Constituent Assembly has completed its labours, His Majesty's Government will recommend to Parliament such action as may be necessary for the cession of sovereignty to the Indian people, subject only to two provisos which are mentioned in the statement and which are not, we believe, controversial, namely, adequate provision for the protection of minorities and willingness to conclude a treaty to cover matters arising out of the transfer of power.

Secondly, while His Majesty's Government are most anxious to secure that the interim period should be as short as possible, you will, we are sure, appreciate that, for the reasons stated above, independence cannot precede the bringing into operation of a new constitution.

### (III) JINNAH'S STATEMENT

May 22, 1946

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To begin with, the statement (the Cabinet Mission's Statement of May 16, 1946) is cryptic with several lacunae and the operative part of it is comprised of a few short paragraphs to which I shall refer later.

I regret that the Mission should have negated the Muslim demand for the establishment of a complete sovereign State of Pakistan, which we still hold is the only solution of the constitutional problem of India and which alone can secure stable governments and lead to the happiness and welfare, not only of the two major communities, but of all the peoples of this sub-continent. It is all the more regrettable that the Mission should have thought fit to advance commonplace and exploded arguments against Pakistan and resorted to special pleadings, couched in a deplorable language, which is

calculated to hurt the feelings of Muslim India. It seems that this was done by the Mission simply to appease and placate the Congress, because when they come to face the realities, they themselves have made the following pronouncement embodied in paragraph 5 of the statement which says :

This consideration did not, however, deter us from examining closely and impartially the possibility of a partition of India since we were greatly impressed by the very genuine and acute anxiety of the Muslims lest they should find themselves subjected to a perpetual Hindu majority rule. This feeling has become so strong and widespread amongst the Muslims that it cannot be allayed by mere paper safeguards. If there is to be internal peace in India it must be secured by measures which will assure to the Muslims a control in all matters vital to their culture, religion and economic or other interests.

And again in paragraph 12 :

This decision does not, however, blind us to the very real Muslim apprehensions that their culture and political and social life might become submerged in a purely unitary India, in which the Hindus with their greatly superior numbers must be a dominating element.

And now what recommendations have they made to effectively secure the object in view and in the light of the very clear and emphatic conclusion they arrived at in paragraph 12 of the statement?

I shall now deal with some of the important points in the operative part of the statement :

(1) They have divided Pakistan into two what they call Section B (for the North-Western Zone) and Section C (for the North-Eastern Zone).

(2) Instead of two constitution-making bodies only one constitution-making body is devised with three sections A, B and C.

(3) They lay down that :

There should be a Union of India, embracing both British India and the States which should deal with the following subjects : Foreign Affairs, Defence and Communications and should have the powers necessary to raise the finances required for the above subjects.

There is no indication at all that the Communications would be restricted to what is necessary for Defence nor is there any indication as to how this Union will be empowered to raise finances required for these three subjects, while our view was that finances should be raised only by contribution and not by taxation.

(4) It is laid down that :

The Union should have an Executive and a Legislature constituted from British Indian and States representatives. Any question raising a major communal issue in the Legislature should require for its decision a majority of the representatives present and voting of each of the two major communities as well as a majority of all the members present and voting.

While our view was :

(a) that there should be no Legislature for the Union, but the question should be left to the Constituent Assembly to decide;

- (b) that there should be parity of representation between Pakistan Group and the Hindustan Group in the Union Executive and Legislature, if any; and
- (c) that no decision, legislative, executive or administrative, should be taken by the Union in regard to any matter of a controversial nature, except by a majority of three-fourths; all these three terms of our offer have been omitted from the statement.

No doubt, there is one safeguard for the conduct of business in the Union Legislature that :

Any question raising a major communal issue in the Legislature should require for its decision a majority of the representatives present and voting of each of the two major communities as well as a majority of all the members present and voting.

Even this is vague and ineffective. To begin with, who will decide and how as to what is a major communal issue and what is a minor communal issue and what is a purely, non-communal issue?

(5) Our proposal that Pakistan Group should have a right to secede from the Union after an initial period of ten years, although the Congress had no serious objection to it, has been omitted and now we are only limited to a reconsideration of terms of the Union Constitution after an initial period of ten years.

(6) Coming to the constitution-making machinery, here again, a representative of British Baluchistan is included in section B, but how he will be elected, is not indicated.

(7) With regard to the constitution-making body for the purpose of framing the proposed Union constitution, it will have an over-whelming Hindu majority, as in a House of 292 for British India the Muslim strength will be 79, and, if the number allotted to Indian States, 93, is taken into account, it is quite obvious that the Muslim proportion will be further reduced as the bulk of the States representatives would be Hindus. This Assembly, so constituted, will elect the Chairman and other officers and, it seems, also the members of the Advisory Committee, referred to in paragraph 20 of the statement, by a majority and the same rule will apply also to other normal business. But, I note, that there is only one saving clause which runs as follows :

In the Union Constituent Assembly resolutions varying the provisions of paragraph 15 above or raising any major communal issue shall require a majority of representatives present and voting of each of the two major communities. The Chairman of the Assembly shall decide, which (if any) of the resolutions raise major communal issues and shall, if so requested by a majority of the representatives of either of the major communities, consult the Federal Court before giving his decision.

It follows, therefore, that it will be the Chairman alone who will decide. He will not be bound by the opinion of the Federal Court, nor need anybody

know what that opinion was, as the Chairman is merely directed to consult the Federal Court.

(8) With regard to the provinces opting out of their Group, it is left to the new legislature of the province after the first general election under the new constitution to decide, instead of a referendum of the people as was suggested by us.

(9) As for paragraph 20 which runs as follows :

The Advisory Committee on the rights of citizens, minorities and tribal and excluded areas should contain full representation of the interests affected, and their function will be to report to the Union Constituent Assembly upon the list of Fundamental Rights, the clauses for the protection of minorities and a scheme for the administration of the tribal and excluded areas and to advise whether these rights should be incorporated in the Provincial, Group or Union constitution.

This raises a very serious question indeed, for, if it is left to the Union Constituent Assembly to decide these matters by a majority vote, whether any of the recommendations of the Advisory Committee should be incorporated in the Union constitution, then it will open a door to more subjects being vested in the Union Government. This will destroy the very basic principle that the Union is to be strictly confined to three subjects.

These are some of the main points which I have tried to put before the public after studying this important document. I do not wish to anticipate the decision of the Working Committee and Council of the All India Muslim League, which are going to meet shortly at Delhi. They will finally take such decisions as they may think proper after a careful consideration of the pros and cons and a thorough and dispassionate examination of the statement of the British Cabinet Delegation and His Excellency the Viceroy.

#### (IV) CONGRESS WORKING COMMITTEE RESOLUTION

May 24, 1946

The Working Committee has given careful consideration to the Statement dated 16th May, 1946, issued by the Delegation of the British Cabinet and the Viceroy on behalf of the British Government, as well as the correspondence relating to it that has passed between the Congress President and the members of the Delegation. They have examined it with every desire to find a way for a peaceful and co-operative transfer of power and the establishment of a free and independent India. Such an India must necessarily have a strong central authority capable of representing the nation with power and dignity in the counsels of the world. In considering the Statement, the Working Committee have kept in view the picture of the future, in so far as this was available to them from the proposals made for the formation of a Provisional Government and the clarification given by members of the Delegation. This picture is still incomplete and vague. It is only on the basis of the full picture that they can judge and come to a decision as to

how far this is in conformity with the objectives they aim at. These objectives are : independence for India, a strong, though limited, central authority, full autonomy for the provinces, the establishment of a democratic structure in the centre and in the units, the guarantee of the fundamental rights of each individual so that he may have full and equal opportunities of growth, and further that each community should have opportunity to live the life of its choice within the larger framework.

The committee regret to find a divergence between these objectives and the various proposals that have been made on behalf of the British Government, and, in particular, there is no vital change envisaged during the interim period when the Provisional Government will function, in spite of the assurance given in paragraph 23 of the Statement. If the independence of India is aimed at, then the functioning of the Provisional Government must approximate closely in fact, even though not in law, to that independence and all obstructions and hindrances to it should be removed. The continued presence of a foreign army of occupation is a negation of independence.

The Statement issued by the Cabinet Delegation and the Viceroy contains certain recommendations and suggests a procedure for the building up of a Constituent Assembly, which is sovereign in so far as the framing of the constitution is concerned. The committee do not agree with some of these recommendations. In their view it will be open to the Constituent Assembly itself at any stage to make changes and variations, with the proviso that in regard to certain major communal matters a majority decision of both the major communities will be necessary.

The procedure for the election of the Constituent Assembly is based on representation in the ratio of one to a million, but the application of this principle appears to have been overlooked in the case of European members of Assemblies, particularly in Assam and Bengal. Therefore, the committee expect that this oversight will be corrected.

The Constituent Assembly is meant to be a fully elected body, chosen by the elected members of the Provincial Legislatures. In Baluchistan there is no elected assembly or any other kind of chamber which might elect a representative for the Constituent Assembly. It would be improper for any kind of nominated individual to speak for the whole province of Baluchistan, which he really does not represent in any way.

In Coorg the Legislative Council contains some nominated members as well as Europeans elected from a special constituency of less than a hundred electors. Only the elected members from the general constituencies should participate in the election.

The Statement of the Cabinet Delegation affirms the basic principle of provincial autonomy and residuary powers vesting in the Provinces. It is provincial autonomy and residuary powers vesting in the Provinces. It is however, it is recommended that provincial representatives will divide up

into sections which "shall proceed to settle the Provincial constitutions for the Provinces in each section and shall also decide whether any Group constitution shall be set up for those Provinces." There is a marked discrepancy in these two separate provisions, and it would appear that a measure of compulsion is introduced which clearly infringes the basic principle of provincial autonomy. In order to retain the recommendatory character of the Statement, and in order to make the clauses consistent with each other, the committee read paragraph 15 to mean that, in the first instance, the respective provinces will make their choice whether or not to belong to the section in which they are placed. Thus the Constituent Assembly must be considered as a sovereign body with final authority for the purpose of drawing up a constitution and giving effect to it.

The provisions in the Statement in regard to the Indian States are vague and much has been left for future decision. The Working Committee would, however, like to make it clear that the Constituent Assembly cannot be formed of entirely disparate elements, and the manner of appointing State representatives for the Constituent Assembly must approximate, in so far as is possible, to the method adopted in the Provinces. The committee are gravely concerned to learn that even at this present moment some State governments are attempting to crush the spirit of their people with the help of armed forces. These recent developments in the States are of great significance in the present and for the future of India, as they indicate that there is no real change of policy on the part of some of the State governments and of those who exercise paramountcy.

A Provisional National Government must have a new basis and must be a precursor of the full independence that will emerge from the Constituent Assembly. It must function in recognition of that fact, though changes in law need not be made at this stage. The Governor-General may continue as the head of that Government during the interim period, but the Government should function as a cabinet responsible to the Central Legislature. The status, powers and composition of the Provisional Government should be fully defined in order to enable the committee to come to a decision. Major communal issues shall be decided in the manner referred to above in order to remove any possible fear or suspicion from the minds of a minority.

The Working Committee consider that the connected problems involved in the establishment of a Provisional Government and a Constituent Assembly should be viewed together so that they may appear as parts of the same picture, and there may be co-ordination between the two, as well as an acceptance of the independence that is now recognised as India's right and due. It is only with the conviction that they are engaged in building up a free, great and independent India, that the Working Committee can approach this task and invite the co-operation of all the people of India. In the absence of a full picture, the committee are unable to give a final opinion at this stage.

## CABINET MISSION'S EXPLANATORY STATEMENT May 25, 1946

*[On May 25, 1946, the Cabinet Mission issued a statement explaining and clarifying certain points which the Muslim League President and the Congress Working Committee had raised [see Document Nos. 50(iii) and (iv)] in regard to the Statement of May 16. On the crucial issue of grouping, the Mission observed that the interpretation put by the Congress did not accord with their intentions. The right to opt out of the groups could be exercised by the Provinces only at the time of the first elections under the new provincial constitutions. The Mission also emphasized that the Plan of May 16 stood as a whole and that grouping, as explained by them, was an 'essential feature' of the Plan. The text of the explanatory statement is reproduced below.]*

THE DELEGATION HAVE considered the statement of the President of the Muslim League dated 22nd May and the resolution dated 24th May of the Working Committee of the Congress.

2. The position is that since the Indian leaders after prolonged discussion failed to arrive at an agreement the Delegation put forward their recommendations as the nearest approach to reconciling the views of the two main parties. The scheme stands as a whole and can only succeed if it is accepted and worked in a spirit of co-operation.

3. The Delegation wish also to refer briefly to a few points that have been raised in the statement and resolution.

4. The authority and the functions of the Constituent Assembly and the procedure which it is intended to follow are clear from the Cabinet Delegation's statement. Once the Constituent Assembly is formed and working on this basis there is no intention of interfering with its discretion or questioning its decisions. When the Constituent Assembly has completed its labours, His Majesty's Government will recommend to Parliament such action as may be necessary for the cession of sovereignty to the Indian people, subject only to two matters which are mentioned in the statement and which, we believe, are not controversial, namely : adequate provision for the protection of the minorities (paragraph 20 of the statement) and willingness to conclude a treaty with His Majesty's Government to cover matters arising out of the transfer of power (paragraph 22 of the statement.)



5. It is a consequence of the system of election that a few Europeans can be elected to the Constituent Assembly. Whether the right so given will be exercised is a matter for them to decide.

6. The representative of Baluchistan will be elected in a joint meeting of the *Shahi Jirga* and the non-official members of the Quetta municipality.

7. In Coorg the whole Legislative Council will have the right to vote but the official members will receive instructions not to take part in the election.

8. The interpretation put by the Congress resolution on paragraph 15 of the statement, to the effect that the Provinces can in the first instance make the choice whether or not to belong to the Section in which they are placed, does not accord with the Delegation's intentions. The reasons for the grouping of the Provinces are well known and this is an essential feature of the scheme and can only be modified by agreement between the parties. The right to opt out of the groups after the constitution-making has been completed will be exercised by the people themselves, since at the first election under the new provincial constitution this question of opting out will obviously be a major issue and all those entitled to vote under the new franchise will be able to take their share in a truly democratic decision.

9. The question of how the States representatives should be appointed to the Constituent Assembly is clearly one which must be discussed with the States. It is not a matter for decision by the Delegation.

10. It is agreed that the interim Government will have a new basis. That basis is that all portfolios including that of the War Member will be held by Indians and that the members will be selected in consultation with the Indian political parties. These are very significant changes in the Government of India and a long step towards independence. H.M.G. will recognise the effect of these changes, will attach the fullest weight to them and will give to the Indian Government the greatest possible freedom in the exercise of the day-to-day administration of India.

11. As the Congress statement recognises, the present constitution must continue during the interim period and the interim Government cannot, therefore, be made legally responsible to the Central Legislature. There is, however, nothing to prevent the members of the Government, individually or by common consent, from resigning if they fail to pass an important measure through the Legislature or if a vote of no-confidence is passed against them.

12. There is, of course, no intention of retaining British troops in India against the wish of an independent India under the new constitution; but during the interim period, which it is hoped will be short, the British Parliament has under the present constitution the ultimate responsibility for the security of India and it is necessary, therefore, that British troops should remain.

## SIKHS' OPPOSITION TO THE CABINET MISSION'S PLAN May-June 1946

*[In a letter to the Secretary of State, dated May 25, 1946, Master Tara Singh, a prominent leader of the Sikhs, observed that the Cabinet Mission's scheme had thrown the Sikhs at the mercy of the Muslims since, as a consequence of the compulsory grouping of Provinces, in Group B, comprising the Punjab, the N.W.F.P., Sind and Baluchistan the representatives given to each community would be only 4 Sikhs and 9 Hindus as against 23 Muslims. For similar reasons, by a resolution adopted on June 10, the Sikh Panthic Conference declared that the Cabinet Mission's proposals were wholly unacceptable to the Sikhs. Accordingly, Sikh members of the Punjab Legislative Assembly did not initially take part in the elections to the Constituent Assembly. The boycott was, however, withdrawn later (see Document No. 62). The texts of Master Tara Singh's letter and the Sikh Panthic Conference resolution are reproduced below.]*

### (I) LETTER FROM MASTER TARA SINGH TO THE SECRETARY OF STATE May 25, 1946

SINCE THE BRITISH CABINET MISSION'S recommendations for the future Constitution of India have been published, a wave of dejection, resentment and indignation has run throughout the Sikh community. The reasons are quite obvious.

The Sikhs have been entirely thrown at the mercy of the Muslims. Group B comprises the Punjab, the N.W.F. Province, Sind and Baluchistan; and the representatives given to each community will be Muslims 23, Hindus 9 and Sikhs 4. Can anybody expect from this assembly, constituted as it is, any consideration of justice for the Sikhs? The Cabinet Mission recognises "the very genuine and acute anxiety of the Muslims lest they should find themselves subjected to a perpetual Hindu majority rule." But is there no "genuine and acute anxiety" among the Sikhs lest they should find themselves subjected to a perpetual Muslim majority rule? If the British Government is not aware of the Sikh feelings, the Sikhs will have to resort to some measures in order to convince everybody concerned of the Sikh

anxiety, in case they are subjected to a perpetual Muslim domination. The Cabinet Mission has not only put under Muslim domination the non-Muslim areas of the Punjab and Bengal, but the whole province of Assam where the non-Muslims are in overwhelming majority. This is evidently done to placate the Muslims. If the first consideration of the Cabinet Mission's recommendations is to give protection to the Muslims why should the same consideration be not shown for Sikhs? But it appears that the Sikhs have been studiously debarred from having any effective influence in the province, a group or Central Union. I refer to Section 15(2) and Section 19(vii) in which it has been definitely provided that the majority of both the Hindus and Muslims is necessary for certain purposes. The Sikhs are entirely ignored, though they are as much concerned as the other communities.

This is how I read the recommendations of the Cabinet Mission. But as the issues are very grave and momentous the Sikh representatives assembled here today to consider the situation created, have advised me to seek clarification from you and find out if there is any hope of such amendments as may save the Sikhs from perpetual domination.

So I put three questions:

- (1) What is the significance of recognising the Sikhs as one of "the main communities"?
- (2) Suppose the majority of Section B frames a constitution under Section 19(5) but the Sikh members do not agree. Does it mean deadlock or does the opposition of the Sikh members mean simply disassociation?
- (3) Is there any hope of obtaining for the Sikhs the same right as is given to the Muslims and the Hindus under Sections 15(2) and 19(vii)?

## (II) RESOLUTION OF THE SIKH PANTHIC CONFERENCE

June 10, 1946

This representative gathering of Sikhs has given its anxious and earnest consideration to the recommendations of the Cabinet Mission and is of the opinion that these recommendations will perpetuate the slavery of the country rather than promote the independence of India. The recommendations are particularly unjust to the Sikhs, regard being had *inter alia* to the matters specified hereunder:

- (a) That the Cabinet Mission, while recognizing that the establishment of Pakistan would in particular affect adversely the position of the Sikhs have yet, by the compulsory grouping of the Provinces, made recommendations, which in the words of Lord Pethick-Lawrence, Secretary of State for India, "have made it possible for the Muslims to secure all the conditions of Pakistan without incurring the dangers in it."

- (b) That the Cabinet Mission, while admitting that the cultural, political and social life of the Muslims might become submerged in a purely unitary India, in which the Hindus with their great superior numbers will be a dominant element, and this in spite of the fact that the Muslims are nine crores in population and constitute a majority in several provinces of India, have deliberately blinded themselves to the same danger to a greater degree in the case of the Sikhs under Muslim domination which will be all the more aggravated by the proposed constitution. Needless to add that even under the existing constitution the Sikhs have been reduced to a position of complete helplessness which has already exasperated them to the verge of revolt.
- (c) That, while admitting that the Punjab is the homeland of the Sikhs, the Cabinet Mission have by their recommendations liquidated the position of the Sikhs in their homeland.
- (d) That the advisory committee set up under paragraph 20 of the Cabinet Mission's statement is wholly ineffective to safeguard the just rights of the Sikhs.
- (e) That, while the Cabinet Mission have made provision for the protection of the rights and interests of the Hindus and Muslims in regard to major communal issues, they have made no such provision for the protection of the rights and the interests of the Sikhs in the Union or the provincial sphere.

Therefore, this Panthic gathering expresses its strong condemnation of the recommendations of the Cabinet Mission and declares that they are wholly unacceptable to the Sikhs. This gathering further affirms that no constitution will be acceptable to the Sikhs which does not meet their just demands and is settled without their consent.

## MUSLIM LEAGUE RESOLUTION ON THE CABINET MISSION'S PLAN

June 6, 1946

*[On June 6, 1946, the Council of the All-India Muslim League passed a resolution which, while critical of the contents of the Cabinet Mission's statement of May 16, 1946, particularly on the issue of Pakistan, and while reiterating that a complete sovereign Pakistan still remained 'the unalterable objective of the Muslims in India,' accepted the Mission's plan and announced the League's decision to join the constitution-making body. The text of the resolution is reproduced below. This decision was later revoked by the League (see Document No. 60).]*

THIS MEETING OF the Council of the All-India Muslim League, after having carefully considered the Statement issued by the Cabinet Mission and the Viceroy on 16th May, 1946, and other relevant statements and documents officially issued in connection therewith, and after having examined the proposals set forth in the said statement in all their bearings and implications, places upon record the following views for the guidance of the Nation and direction to the Working Committee.

2. That the references made, and the conclusions recorded, in paras. 6, 7, 8, 9, 10 and 11 of the Statement, concerning the Muslim demand for the establishment of a full Sovereign Pakistan as the only solution of the Indian constitutional problem are unwarranted, unjustified, and unconvincing, and should not therefore have found a place in a State document issued on behalf and with the authority of, the British Government. These paragraphs are couched in such language, and contain such mutilations of the established facts, that the Cabinet Mission have clearly been prompted to include them in their Statement solely with the object of appeasing the Hindus, in utter disregard of Muslim sentiments. Furthermore, the contents of the aforesaid paragraphs are in conflict and inconsistent with the admissions made by the Mission themselves in paras. 5 and 12 of their Statement, which are to the following effect : First, the Mission "were greatly impressed by the very genuine and acute anxiety of the Muslims lest they should find themselves subjected to a perpetual Hindu majority rule." Second, "this feeling has become so strong and widespread amongst the Muslims that it

cannot be allayed by mere paper safeguards." Third, "If there is to be internal peace in India it must be secured by measures which will assure to the Muslims a control in all matters vital to their culture, religion, economic or other interests." Fourth, "Very real Muslim apprehensions exist that their culture and political and social life might become submerged in a purely unitary India, in which the Hindus, with their greatly superior numbers, must be the dominating element." In order that there may be no manner of doubt in any quarter, the Council of the All-India Muslim League reiterates that the attainment of the goal of a complete sovereign Pakistan still remains the unalterable objective of the Muslims in India for the achievement of which they will, if necessary, employ every means in their power, and consider no sacrifice or suffering too great.

3. That notwithstanding the affront offered to Muslim sentiments by the choice of injudicious words in the preamble to the Statement of the Cabinet Mission, the Muslim League, having regard to the grave issues involved, and prompted by its earnest desire for a peaceful solution, if possible, of the Indian constitutional problem, and inasmuch as the basis and the foundation of Pakistan are inherent in the Mission's plan by virtue of the compulsory grouping of the six Muslim Provinces in Section B and C, is willing to co-operate with the constitution-making machinery proposed in the scheme outlined by the Mission, in the hope that it would ultimately result in the establishment of complete sovereign Pakistan, and in the consummation of the goal of independence for the major nations, Muslims and Hindus, and all the other people inhabiting the vast subcontinent.

It is for these reasons that the Muslim League is accepting the scheme, and will join the constitution-making body, and it will keep in view the opportunity and right of secession of Provinces or groups from the Union, which have been provided in the Mission's plan by implication. The ultimate attitude of the Muslim League will depend on the final outcome of the labours of the constitution-making body, and on the final shape of the constitutions which may emerge from the deliberations of that body jointly and separately in its three sections. The Muslim League also reserves the right to modify and revise the policy and attitude set forth in this resolution at any time during the progress of the deliberations of the constitution-making body, or the Constituent Assembly, or thereafter if the course of events so require, bearing in mind the fundamental principles and ideals herebefore adumbrated, to which the Muslim League is irrevocably committed.

4. That with regard to the arrangement for the proposed Interim Government at the Centre, this Council authorizes its President to negotiate with the Viceroy and to take such decisions and actions as he deems fit and proper.

## AZAD-VICEROY CORRESPONDENCE

June 14-16, 1946

*[Even after the Cabinet Mission's Explanatory Statement of May 25, 1946 (see Document No. 51), the Indian National Congress remained unreconciled to the idea of compulsory grouping of Provinces as well as to European members of the Provincial Assemblies participating in the elections to the Constituent Assembly. The two issues figured prominently in some correspondence between Congress President Azad and the Viceroy about the middle of June 1946. Relevant extracts from the correspondence are reproduced below.]*

*The controversy over the question of the European vote was settled shortly after by the European Party in the Bengal Legislature deciding not to take part in the Constituent Assembly elections (see Document No. 56).]*

## (I) LETTER FROM AZAD TO THE VICEROY

June 14, 1946

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YOU ARE no doubt aware of the strong feeling of resentment which exists among large sections of the people against some of the proposals in the statement, notably the idea of grouping. The Frontier Province and Assam have expressed themselves with considerable force against any compulsory grouping. The Sikhs have felt hurt and isolated by these proposals and are considerably agitated. Being a minority in the Punjab, they become still more helpless as far as numbers go in Section B. We appreciated all these objections especially as we ourselves shared them. Nevertheless, we hoped that according to our interpretation of the clauses related to grouping, which we still hold is the correct interpretation, for any other interpretation would endanger the basic principle of Provincial Autonomy, we might be able to get over some of the obvious difficulties.

But two insuperable obstacles remained and we had hoped that you would be able to remove them.

One of these related to the part that European Members of the Provincial Assemblies might play in the election to the Constituent

Assembly. We have no objection to Englishmen or Europeans as such, but we do have a strong objection to persons, who are foreigners and non-nationals and who claim to belong to the ruling race, participating in and influencing the elections to the Constituent Assembly. The Cabinet Delegation's statement lays down clearly that the future Constitution of India has to be decided by Indians. The basic principle of the statement of May 16th was the election of a member of the Constituent Assembly to represent one million inhabitants. On this basis, the representatives of 146,000 Muslims in Orissa and 180,000 Hindus and 58,000 Sikhs in the North West Frontier Province have not been given the right to elect any member to the Constituent Assembly. The European population of Bengal and Assam numbers only 21,000, but their representatives can return to the Constituent Assembly by their own vote 7 out of 34 members, thus appropriating to themselves the right to represent 7 millions. They are returned to the Provincial Assemblies by a separate electorate of their own and have been given fantastic weightage. This representation of Europeans in the Constituent Assembly will be at the cost of non-Muslims, that is mainly Hindus, who are already a minority in Bengal. To make a minority suffer in this way is surely utterly wrong. Apart from the question of principle, it is a matter of the utmost importance in practice and may well affect the future both of Bengal and Assam. The Congress Working Committee attach the greatest importance to this. We would like to add that even if the Europeans themselves do not stand for election, but merely vote, the results will be equally bad. The Cabinet Delegation have informed us that beyond promising to use their persuasive powers they could not hold out any assurance to us that these European members would not exercise the right which, we are advised, they do not possess under the statement of May 16th. But if the Delegation hold otherwise, as evidently they do, we cannot contemplate a legal fight for their exclusion at the threshold of the Constituent Assembly. Therefore, a clear announcement is necessary that they will not take part as voters or candidates in the election to the Constituent Assembly. We cannot depend on grace or goodwill where rights are concerned.

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## (II) LETTER FROM THE VICEROY TO AZAD

June 15, 1946

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3. The Delegation and I are aware of your objections to the principle of grouping. I would however point out that the statement of 16th May does not make grouping compulsory. It leaves the decision to the elected



representatives of the Provinces concerned sitting together in sections. The only provision which is made is that the representatives of certain Provinces should meet in sections so that they can decide whether or not they wish to form groups. Even when this has been done the individual Provinces are still to have the liberty to opt out of the group if they so decide.

4. I recognise the difficulty about the Europeans who through no fault of their own find themselves in a difficult position. I still hope that a satisfactory solution of this problem will be found.

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(III) LETTER FROM AZAD TO THE VICEROY

June 16, 1946

I note what you say about grouping. We abide by our interpretation of it. As regards Europeans, we are clear that even on a legal interpretation of the statement of May 16th, apart from other considerations, they have not the right to participate in the elections to the Constituent Assembly. I am glad you expect a satisfactory solution of this problem.

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So far as the statement of May 16th is concerned our main difficulty, as we wrote to you, was the European vote. If this matter is settled, as now appears likely, then this difficulty also goes.

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## PRINCELY STATES' RESPONSE TO THE CABINET MISSION'S PLAN

June 1946

*[In a letter to the Viceroy, dated June 19, 1946, the Nawab of Bhopal, Chancellor of the Chamber of Princes, observed that in the view of the Standing Committee of the Chamber of Princes the Cabinet Mission's Plan provided the necessary machinery for the attainment of Indian independence and a fair basis for further negotiations. However, the Princes preferred to postpone their decision on the question of joining the Constituent Assembly. The letter was accompanied by a Press Statement on the Mission's proposals issued by the Standing Committee some days earlier. Replying to the Chancellor on June 29, the Viceroy welcomed the attitude which the Princes had adopted towards the Mission's Plan. The correspondence is reproduced below.]*

### (I) LETTER FROM THE NAWAB OF BHOPAL, CHANCELLOR OF THE CHAMBER OF PRINCES, TO THE VICEROY

June 19, 1946

THE STANDING COMMITTEE of Princes gave most careful consideration at their recent meetings in Bombay to the proposals of the Cabinet Mission and Your Excellency in regard to the long-range constitutional arrangements and for the interim period. Their views are embodied in the enclosed statement which has been released to the Press and of which an advance copy was forwarded to Sir Conrad. I would invite your Excellency's particular attention to the attitude taken by the Standing Committee of Princes on the question of internal reforms in the States as indicated in paragraph 4 of the Press statement.

2. The Standing Committee desired me to convey to the members of the Cabinet Mission and to Your Excellency their grateful appreciation of the genuine efforts made by them, notwithstanding obvious difficulties to reach as far as possible an agreed settlement of the Indian constitutional problem. The Standing Committee are of the view that the plan provides the necessary machinery for the attainment by India of independence as well as a fair basis for further negotiations. They welcome the Declaration

of the Cabinet Mission in regard to Paramountcy but consider certain adjustments necessary for the interim period which have already been indicated by them. Final decisions of the States and of the Standing Committee, as will doubtless be appreciated, will depend on the completed picture which may emerge from the proposed negotiations and discussions.

3. The Standing Committee desire in particular to convey their gratitude to Your Excellency for your valuable advice and assistance during these negotiations to safeguard the legitimate interest of the States, and they would request that their grateful thanks may also be conveyed to Sir Conrad Corfield who, as Your Excellency knows, has been very helpful. The committee feel confident that with your support the various matters which have been left undefined or for future negotiations and discussions will be settled on merits to the satisfaction of the States.

4. The Standing Committee have decided, in response to Your Excellency's invitation, to set up a Negotiating Committee whose personnel is given in the enclosed list. [Not published being confidential.] The committee did their utmost to keep the number small as desired by Your Excellency but they felt that it would not be possible for them to reduce that number. I shall be grateful if I am informed as early as possible of the time and place when this committee is expected to meet, and the personnel of the corresponding committee which may be set up by the representatives of British India on the Constituent Assembly. The result of these negotiations are proposed to be considered by the Standing Committee of Princes, the Committee of Ministers and the Constitutional Advisory Committee whose recommendations will be placed before a General Conference of Rulers and Representatives of States. The decision on the question whether the States should or should not join the Constituent Assembly will be taken by that conference and will depend on the result of the forthcoming negotiations.

5. A list of representatives of the States for the proposed committee on matters of common concern to British India and the States is also enclosed. It was necessary to accommodate on it various important interests and regions of States and to include persons with special knowledge of subjects which are likely to be taken up at the deliberation of this committee. It is understood, however, that all the members of this committee would not be required to attend every meeting, and that ordinarily not more than five or six, whatever the number from British India, would be invited by the Chancellor to participate in the discussions according to the nature of subjects on the Agenda. Provision will also have to be made for the co-option of representatives from any State or group of States, not directly represented on the committee, when any special questions particularly affecting them are under discussion. Draft rules for the conduct of business and other details relating to this committee will be discussed with Sir Conrad and it is believed that Your Excellency may also have to consult the interim Government in regard to these matters.

6. In the meantime, as desired by Your Excellency, questions relating to the exercise of Paramountcy in the interim period are proposed to be pursued with Sir Conrad and any outstanding points will be submitted to Your Excellency. The Standing Committee have authorised me to conduct further negotiations in regard to these matters with a view to reaching early decisions.

### ENCLOSURE

#### PRESS STATEMENT BY THE STANDING COMMITTEE

The Standing Committee of the Chamber of Princes have in consultation with the Committee of Ministers and the Constitutional Advisory Committee given careful consideration to the Statement issued by the Cabinet Delegation and His Excellency the Viceroy on 16th May, 1946. They have also examined the Delegation's Memorandum on States Treaties and Paramountcy, and the further statement of 25th May. They are of the view that the Plan provides the necessary machinery for the attainment by India of independence as well as a fair basis for further negotiations. They welcome the Declaration of the Cabinet Mission in regard to Paramountcy, but certain adjustments for the interim period will be necessary.

2. There are however a few points in the Plan which still require elucidation. There are also several matters of fundamental importance which are left over for negotiation and settlement. The Standing Committee have therefore accepted the invitation of His Excellency the Viceroy to set up a Negotiating Committee and have authorised the Chancellor to arrange discussions as contemplated in the Plan. It is proposed to place the results of these negotiations before a General Conference of Rulers and Representatives of States.

3. As regards the arrangements for the interim period, the Standing Committee confirm the following proposals made by the Chancellor :

- (a) that a Special Committee may be set up consisting of the States and of the Central Government to discuss and reach agreement on matters of common concern during the interim period;
- (b) that disputes on justiciable issues and on fiscal, economic or financial matters should be referable to Courts of Arbitration as a matter of right;
- (c) that in personal and dynastic matters the agreed procedure should be implemented in letter and spirit, and the Crown Representative should ordinarily consult the Chancellor and a few other Princes if not objected to by the States concerned;
- (d) that in agreement with the States, machinery may be provided for the early settlement of the pending cases and for the revision, at the instance of the States concerned, of the existing arrangements in regard to such subjects as Railways, Ports and Customs.

The Committee have therefore authorised the Chancellor to conduct further negotiations with a view to reaching early decisions.

4. The Standing Committee endorse the suggestion made by the Cabinet Delegation that the States "will doubtless strengthen their position by doing everything possible to ensure that their administrations conform to the highest standard. Where adequate standards cannot be achieved within the existing resources of the State they will no doubt arrange in suitable cases to form or join administrative units large enough to enable them to be fitted into the constitutional structure. It will also strengthen the position of the States during this formulative period if the various Governments which have not already done so take active steps to place themselves

in close and constant touch with public opinion in their State by means of representative institutions." The Standing Committee wish to emphasise the necessity for the States, which have not done so, to declare immediately their decision to follow the lines of internal reforms laid down in the declaration made by the Chancellor at the last Session of the Chamber of Princes and to take necessary steps to implement that decision within 12 months.

(II) LETTER FROM THE VICEROY TO THE NAWAB OF BHOPAL,  
CHANCELLOR OF THE CHAMBER OF PRINCES  
June 29, 1946

I am much obliged to Your Highness for your letter of 19th June, in which Your Highness informs me of the conclusions reached by the Standing Committee of Princes as a result of their deliberation at Bombay in the second week of June.

The Cabinet Mission and I welcome the attitude which the Princes have adopted towards the plan which we have proposed for the solution of India's constitutional problem, and we particularly appreciate the action of the Standing Committee in endorsing the suggestions we made in regard to the manner in which States could best fit themselves to make their due contribution to India's new constitutional structure. We are confident that, when the time comes for the States to make their final decision, that decision will be characterised by the same sense of realism and the same spirit of accommodation as have already been manifested.

I greatly appreciate the sentiments expressed by the Standing Committee in regard to myself and my Political Adviser. I should like to assure your Highness and the Standing Committee that we shall continue, during the forthcoming negotiations, to give such assistance as is in our power to the promotion of agreed conclusions satisfactory alike to the States and to British India.

I have taken note of the personnel selected by the States to represent them on the negotiating committee. I will inform Your Highness, as soon as I am in a position to do so, of the time and place of the committee's meeting. The composition of the corresponding committee from British India cannot, I think, be determined in advance of the preliminary session of the Constituent Assembly.

I understand from Sir Conrad Corfield that he is already engaged in active discussions with the authorities of the Central Government about the machinery for giving effect to the Princes' proposal for a Consultative Committee to deal with matters of common concern to British India and the States. Sir Conrad will, no doubt, keep Your Highness fully informed of the progress made in these discussions, and I myself intend, at a later stage, to place the proposal before the Interim Government.

I shall be grateful if Your Highness will convey to the Standing Committee

of Princes my appreciation of the helpful attitude they have adopted towards the complex constitutional problems with which India is confronted. Under Your Highness's presidency, the Standing Committee have given a lead which will, I trust, be followed by all Princes of India.

## BENGAL EUROPEANS' DECISION TO ABSTAIN FROM THE CONSTITUENT ASSEMBLY ELECTIONS

June-July, 1946

*[In view of the strong Congress objection to European Members of the Provincial Legislative Assemblies, particularly in Bengal and Assam, taking part in the elections to the Constituent Assembly [see Document Nos. 50(i) and (iv) and 54(i) and (iii)], the European Party in the Bengal Legislative Assembly announced, by a resolution adopted on June 15, 1946, that it would not nominate anyone for election to the Constituent Assembly nor vote for any European to sit in that Assembly. However, as the Congress insisted that no non-Indian could at all participate in voting in the Constituent Assembly elections (see Document No. 58), the Bengal European Party eventually decided not to take any part in the said elections. The decision was announced in a statement issued by the Party on July 5. The texts of the Resolution and the Statement are reproduced below. Subsequently a similar decision was taken by the Europeans in Assam.]*

### (I) RESOLUTION PASSED BY THE EUROPEAN PARTY IN THE BENGAL LEGISLATIVE ASSEMBLY

June 15, 1946

DESIRING TO AVOID a breakdown of the Cabinet plan, and agreeing that Indians should decide the future Constitution of India, the European Party in the Bengal Assembly will not nominate anyone for election to the Constituent Assembly and will not vote for any European to sit in the Constituent Assembly. They will agree to use their votes in accordance with any agreement reached between the two major parties.

### (II) STATEMENT BY THE EUROPEAN PARTY IN THE BENGAL LEGISLATIVE ASSEMBLY

July 5, 1946

As the two major Indian political parties have come to no agreement on the exercise by the European party in the Bengal Assembly of their votes in the forthcoming elections to the Constituent Assembly, and as, on

the contrary, to exercise their franchise seems likely to be a continuing source of discord, the European party in the Bengal Assembly, in accordance with their previously expressed policy and sincerely hoping that their decision will contribute to the successful working of the constitution-making machinery by all the Indian political parties, have decided to abstain from voting in the forthcoming elections to the Constituent Assembly.



CABINET MISSION'S STATEMENT ON AN  
INTERIM GOVERNMENT

June 16, 1946

*[Discussions on the formation of an Interim Government having popular support were initiated by the Viceroy during the Cabinet Mission's conference with representatives of the Indian National Congress and the Muslim League, held at Simla in May 1946. From the outset, the Congress demanded the early setting up of a truly national Provisional Government and stressed that the problems involved in the establishment of a Provisional Government and a Constituent Assembly were closely inter-related and had to be viewed together [see Document Nos. 47(iv) and 50(iv)]. After the announcement of the May 16 Plan [Document No. 48(i)], the Viceroy again took up the question of an Interim Government with the Congress and the League. However, the negotiations broke down as the two conditions laid down by the League, namely, that the Interim Government should be constituted on a basis of Congress-League parity and that no Muslim should be nominated to the Government by the Congress, were unacceptable to the Congress. The Congress President Azad made it clear that his party was entirely opposed to parity in any shape or form as well as to the exclusion of non-League Muslims. As a way out of the deadlock, the Cabinet Mission and the Viceroy announced, in a statement on June 16, their own proposals for an Interim Government consisting of 14 members—six Hindus, including one from the Scheduled Castes, belonging to the Congress, five Muslims belonging to the League, one Sikh, one Parsee and one Indian Christian. The offer fell through mainly because a suggestion by the Congress to substitute a Muslim of its own choice for one of the six Congressmen invited to join the Government was stubbornly opposed by Jinnah, the League President, who declared that the League would never accept the nomination of a Muslim other than a Muslim Leaguer. Writing to the Viceroy on June 25, Azad observed that the Congress was a national organisation and could not be placed on a par with a communal body like the League. He also objected to certain clarifications and assurances regarding the composition and functioning of the Interim Government, which the Viceroy had given to Jinnah. The Cabinet Mission and the Viceroy were, however, unable to accept the suggestion made by the Congress, and on June 25, the Congress Working Committee finally decided to reject the June 16 proposals (see Document No. 58; for further developments relating to the*

*formation of the Interim Government see Notes to Document Nos. 59, 60 & 63). The text of the June 16 statement is reproduced below.]*

HIS EXCELLENCY THE VICEROY, in consultation with the members of the Cabinet Mission, has for sometime been exploring the possibilities of forming a Coalition Government drawn from the two major parties and certain of the minorities. The discussions have revealed the difficulties which exist for the two major parties in arriving at any agreed basis for the formation of such a Government.

2. The Viceroy and the Cabinet Mission appreciate these difficulties and the efforts which the two parties have made to meet them. They consider however that no useful purpose can be served by further prolonging these discussions. It is indeed urgently necessary that a strong and representative Interim Government should be set up to conduct the very heavy and important business that has to be carried through.

3. The Viceroy is therefore issuing invitations to the following to serve as members of the Interim Government, on the basis that the constitution-making will proceed in accordance with the statement of May 16th: Sardar Baldev Singh, Sir N. P. Engineer, Mr. Jagjivan Ram, Pandit Jawaharlal Nehru, Mr. M. A. Jinnah, Nawabzada Liaquat Ali Khan, Mr. H. K. Mahatab, Dr. John Mathai, Nawab Mohammed Ismail Khan, Khwaja Sir Nazimuddin, Sardar Abdur Rab Nishtar, Mr. C. Rajagopalachari, Dr. Rajendra Prasad, Sardar Vallabhbhai Patel. If any of those invited is unable for personal reasons to accept, the Viceroy will after consultation invite some other person in his place.

4. The Viceroy will arrange the distribution of portfolios in consultation with the leaders of the two major parties.

5. The above composition of the Interim Government is in no way to be taken as a precedent for the solution of any other communal question. It is an expedient put forward to solve the present difficulty only, and to obtain the best available Coalition Government.

6. The Viceroy and the Cabinet Mission believe that Indians of all communities desire to arrive at a speedy settlement of this matter so that the process of constitution-making can go forward and that the Government of India may be carried on as efficiently as possible in the meantime.

7. They therefore hope that all parties especially the two major parties will accept this proposal so as to overcome the present obstacles and will co-operate for the successful carrying on of the Interim Government. Should this proposal be accepted the Viceroy will aim at inaugurating the new Government about the 26th June.

8. In the event of the two major parties or either of them proving unwilling to join in the setting up of a Coalition Government on the above

lines, it is the intention of the Viceroy to proceed with the formation of an Interim Government which will be as representative as possible of those willing to accept the statement of May 16th.

9. The Viceroy is also directing the Governors of the Provinces to summon the Provincial Legislative Assemblies forthwith to proceed with the elections necessary for the setting up of the constitution-making machinery as put forward in the statement of May 16th.

CONGRESS RESOLUTION ACCEPTING THE CABINET  
MISSION'S PLAN  
June 25, 1946

*[By a resolution adopted on June 25, 1946, the Congress Working Committee announced that notwithstanding its dissatisfaction with certain features of the Cabinet Mission's statement of May 16 [Document No. 48(i)] it had decided that the Congress should join the proposed Constituent Assembly. However, the committee rejected the proposals for the formation of an Interim Government contained in the Mission's statement of June 16 (Document No. 57). The resolution was ratified by the All-India Congress Committee on July 7. The text of the resolution is reproduced below.]*

ON MAY 24, the Working Committee passed a Resolution on the Statement dated May 16 issued by the British Cabinet Delegation and the Viceroy. In this Resolution, they pointed out some defects in the Statement and gave their own interpretation of certain parts of it.

Since then, the committee has been continuously engaged in giving earnest consideration to the proposals made on behalf of the British Government in the statements of May 16 and June 16, and have considered the correspondence in regard to them between the Congress President and Members of the Cabinet Delegation and the Viceroy. The committee has examined both these sets of proposals from the point of view of the Congress objective of immediate independence and the opening out of avenues leading to the rapid advance of the masses economically and socially, so that their material standards may be raised and poverty, malnutrition, famine and lack of the necessities in life may be ended, and all the people of the country may have freedom and the opportunity to grow and develop according to their genius.

These proposals fall short of these objectives. Yet the committee has considered them earnestly in all their aspects because of their desire to find some way for the peaceful settlement of India's problem and the ending of the conflict between India and England.

The kind of independence which Congress has aimed at is the establishment of a united democratic Indian Federation with a Central authority

which would command respect from the nations of the world, maximum provincial autonomy, and equal rights for all men and women in the country. The limitation of the Central authority, as contained in the proposals as well as the system of grouping of Provinces, weakened the whole structure and was unfair to some Provinces, such as the North-West Frontier Province, and Assam, and to some of the minorities, notably the Sikhs.

The committee disapproved of this. They felt, however, taking the proposals as a whole, that there was sufficient scope for enlarging and strengthening the Central authority and for fully ensuring the right of a Province to act according to its choice in regard to grouping, and to give protection to such minorities as might otherwise be placed at a disadvantage. Certain other objections were also raised on their behalf, notably the possibility of non-nationals taking any part in the constitution-making. It is clear that it would be a breach both of the letter and the spirit of the statement of May 16 if any non-Indian participated in voting or standing for election to the Constituent Assembly.

In the proposals for an Interim Government contained in the Statement of June 16, the defects related to matters of vital concern to the Congress. Some of these have been pointed out in a letter of June 25, from the Congress President to the Viceroy. The Provisional Government must have power and authority and responsibility and should function, in fact if not in law, as a *de facto* independent Government leading to the full independence to come. The Members of such a Government can only hold themselves responsible to the people and not to any external authority. In the formation of a Provisional or other Government, Congressmen can never give up the national character of Congress or accept an artificial and unjust parity, or agree to a veto of a communal group. The committee are unable to accept the proposals for the formation of an Interim Government as contained in the Statement of June 16.

The committee have, however, decided that the Congress should join the proposed Constituent Assembly with a view to framing the constitution of a free, united and democratic India.

While the committee have agreed to Congress participation in the Constituent Assembly, it is, in their opinion, essential that a representative and responsible provisional national Government be formed at the earliest possible date. The continuation of an authoritarian and unrepresentative Government can only add to the suffering of the famishing masses and increase discontent. It will also put in jeopardy the work of the Constituent Assembly, which can only function in a free environment.

The Working Committee recommend accordingly to the All-India Congress Committee, and for the purpose of considering and ratifying this recommendation they convene an emergent meeting of the All-India Congress Committee in Bombay on July 6 and 7.

## CABINET MISSION'S STATEMENT

June 26, 1946

*[The Cabinet Mission left India on June 29, 1946. In a statement issued on June 26, the Mission and the Viceroy welcomed the decisions of the Indian National Congress and the Muslim League to join the Constituent Assembly. Regretting that it had not so far proved possible to form an Interim Coalition Government (see Note to Document No. 57), they added that negotiations on the subject would be resumed after a short interval. The text of the statement is reproduced below.]*

THE CABINET MISSION and the Viceroy are glad that constitution-making can now proceed with the consent of the two major parties and of the States. They welcome the statements made to them by the leaders of the Congress and the Muslim League that it is their intention to try and work in the Constituent Assembly so as to make it a speedy and effective means of devising the new constitutional arrangements under which India can achieve her independence. They are sure that the members of the Constituent Assembly who are about to be elected will work in this spirit.

2. The Cabinet Mission and the Viceroy regret that it has not so far proved possible to form an Interim Coalition Government, but they are determined that the effort should be renewed in accordance with the terms of paragraph 8 of their statement of June 16th. Owing however to the very heavy burden which has been cast upon the Viceroy and the representatives of the parties during the last three months, it is proposed that the further negotiations should be adjourned for a short interval during the time while the elections for the Constituent Assembly will be taking place. It is hoped that when the discussions are resumed, the leaders of the two major parties who have all expressed their agreement with the Viceroy and the Cabinet Mission on the need for the speedy formation of a representative Interim Government, will do their utmost to arrive at an accommodation upon the composition of that government.

3. As the Government of India must be carried on until a new Interim Government can be formed, it is the intention of the Viceroy to set up a temporary caretaker Government of officials.

4. It is not possible for the Cabinet Mission to remain longer in India

as they must return to report to the British Cabinet and Parliament and also to resume their work from which they have been absent for over three months. They therefore propose to leave India on Saturday next, June 29th. In leaving India the members of the Cabinet Mission express their cordial thanks for all the courtesy and consideration which they have received as guests in the country and they most sincerely trust that the steps which have been initiated will lead to a speedy realisation of the hopes and wishes of the Indian people.

## MUSLIM LEAGUE DECISION TO BOYCOTT THE CONSTITUENT ASSEMBLY

June-July, 1946

*[The Congress Working Committee having rejected the proposals for the formation of an Interim Government contained in the Cabinet Mission's statement of June 16, 1946 (see Document Nos. 57 and 58), the Mission and the Viceroy had suggested that further negotiations on the subject should be adjourned for a short interval (see Document No. 59). However, immediately after the Congress decision was known the Muslim League Working Committee announced its acceptance of the June 16 offer. In a statement made on June 27, League President Jinnah strongly protested against the Mission's and the Viceroy's action in postponing the formation of the Interim Government. He also took exception to the Congress adhering to its own interpretation on the question of grouping of provinces. Further, in a letter to the Viceroy on June 28, Jinnah urged that if the setting up of an Interim Government was deferred, the elections to the Constituent Assembly should also be postponed. The demand was turned down by the Viceroy who replied to Jinnah on the same day. Finally, by a resolution adopted on July 27-29, the Council of the All-India Muslim League decided to withdraw its earlier acceptance of the Cabinet Mission's Plan of May 16 [see Document Nos. 48(i) and 53] and to boycott the Constituent Assembly. By another resolution the League Council declared its intention of resorting to 'Direct Action' for the establishment of an independent and fully sovereign State of Pakistan. The relevant extracts from Jinnah's statement of June 27, as well as from the Jinnah-Viceroy correspondence of June 28, and the two resolutions adopted by the Muslim League Council on July 27-29, are reproduced below.]*

### (I) JINNAH'S STATEMENT

June 27, 1946

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I REGRET THAT the Cabinet Delegation and the Viceroy should have thought fit to postpone indefinitely the formation of the Interim Government on the basis of their statement of 16th June, as that statement clearly says that



the Viceroy aimed at inaugurating the Interim Government about 26th June. It is very difficult to see what are the mysterious reasons and causes for this sudden departure. The Muslim League emphatically disapproves of this action on the part of the Cabinet Delegation and the Viceroy, because all contingencies including rejection by the Congress, were contemplated by and provided for in the statement of 16th June, and Clause 8 of the statement, taken along with the context, is quite clear and the Delegation and the Viceroy were in honour bound to go ahead with the formation of the Interim Government immediately with those who were willing to come into the Interim Government on the basis and principles set out in their statement of 16th June.

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Notwithstanding the clear statement of 16th May and the further statement of the Cabinet Delegation and the Viceroy of 25th May clarifying and finally giving their authoritative interpretation, the Congress, both in the letter of the President and their resolution, adhere to their wrong interpretation that any province or provinces is or are entitled to opt out initially, and that they have a right at any stage to do so. This is clear indication that the Congress is not accepting the long-term proposals in a sincere and honest spirit of co-operation and peaceful settlement. If they persist in this and adopt measures to set at nought what is described by the statement of the Delegation of 25th May to constitute the essential feature of the scheme, the whole plan will be wrecked at its very inception.

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In conclusion, I would like to emphasise that if any attempt is made to whittle down in any way the assurances given to the Muslim League or to change or modify the basis of the statement of 16th June, which has been accepted by the Muslim League, it will be regarded by Muslim India as going back on the part of the Cabinet Delegation and the Viceroy on their pledged word in writing and as a breach of faith. The British Government will in that case forfeit the confidence of Muslim India and of those whom they expect to work on their part, according to their pledged word.

## (II) LETTER FROM JINNAH TO THE VICEROY

June 28, 1946

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I strongly urge upon you without prejudice, that the elections to the Constituent Assembly should also be postponed as you know that according

to all the relevant documents and particularly the two Statements of the Cabinet Delegation and yourself dated 16th and 25th of May, the long-term plan and the formation of the Interim Government formed one whole, each constituting an integral part of the whole scheme. It is, therefore, undesirable to proceed with one part, *i.e.*, elections to the Constituent Assembly and to postpone the other.

(III) LETTER FROM THE VICEROY TO JINNAH

June 28, 1946.

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The arrangements for the elections to the Constituent Assembly have already been put into operation and we do not propose to postpone them.

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(IV) MUSLIM LEAGUE RESOLUTION WITHDRAWING ACCEPTANCE OF  
THE CABINET MISSION'S PLAN

July 27-29, 1946

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As regards the proposal embodied in the statements of the 16th and 25th of May of the Cabinet Delegation and the Viceroy, the Muslim League alone of the two major parties has accepted it.

The Congress have not accepted it because their acceptance is conditional and subject to their own interpretation which is contrary to the authoritative statements of the Delegation and the Viceroy issued on the 16th and the 25th of May. The Congress have made it clear that they do not accept any of the terms or the fundamentals of the scheme but that they have agreed only to go into the Constituent Assembly and to nothing else; and that the Constituent Assembly is a sovereign body and can take such decisions as it may think proper in total disregard of the terms and the basis on which it was proposed to be set up. Subsequently this was made further clear and beyond any doubt in the speeches that were made at the meeting of the All-India Congress Committee in Bombay on the 6th of July by prominent members of the Congress and in the statement of Pandit Jawaharlal Nehru, the President of the Congress, to a Press Conference on 10th July in Bombay and then again even after the debate in the Parliament in a public speech by him at Delhi on the 22nd of July.

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Once the Constituent Assembly were summoned and met there was no

provision or power that could prevent any decision from being taken by the Congress with its overwhelming majority, which would not be competent for the Assembly to take or which would be *ultra vires* of it, and however repugnant it might be to the letter or the spirit of the scheme. It would rest entirely with the majority to take such decisions as they may think proper or suit them and the Congress have already secured by sheer numbers an overwhelming Hindu-Caste majority whereby they will be in a position to use the Assembly in the manner in which they have already declared, *i.e.* that they will wreck the basic form of the grouping of the provinces and extend the scope, powers and subjects of the Union Centre which is confined strictly to three specific subjects as laid down in paragraph 15 and provided for in paragraph 19 of the Statement of 16th May.

The Cabinet Delegation and the Viceroy collectively and individually have stated on more than one occasion that the basic principles were laid down to enable the major parties to join the Constituent Assembly and that the Scheme cannot succeed unless it is worked in a spirit of co-operation. The attitude of the Congress clearly shows that these conditions precedent for the successful working of the constitution-making body do not exist. This fact, taken together with the policy of the British Government of sacrificing the interests of the Muslim nation and some other weaker sections of the peoples of India particularly the Scheduled Caste to appease the Congress and the way in which they have been going back on their oral and written solemn pledges and assurances given from time to time to the Muslims, leaves no doubt that in these circumstances the participation of the Muslims in the proposed constitution-making machinery is fraught with danger and the Council, therefore, hereby withdraws its acceptance of the Cabinet Mission's proposals which was communicated to the Secretary of State for India by the President of the Muslim League on the 6th of June 1946.

#### (V) MUSLIM LEAGUE RESOLUTION ON 'DIRECT ACTION'

July 27-29, 1946

Whereas the Council of the All-India Muslim League has resolved to reject the proposals embodied in the Statement of the Cabinet Delegation and the Viceroy dated 16th May, 1946 due to the intransigence of the Congress on one hand, and the breach of faith with the Muslims by the British Government on the other; and

whereas Muslim India has exhausted without success all efforts to find a peaceful solution of the Indian problem by compromise and constitutional means; and

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Whereas it has become abundantly clear that the Muslims of India would not rest contented with anything less than the immediate establishment of an Independent and fully Sovereign State of Pakistan and would resist any attempt to impose any constitution-making machinery or any constitution, long-term or short-term or the setting up of any Interim Government at the Centre without the approval and consent of the Muslim League;

the Council of the All-India Muslim League is convinced that now the time has come for the Muslim Nation to resort to Direct Action to achieve Pakistan to assert their just rights, to vindicate their honour and to get rid of the present British slavery and the contemplated future Caste-Hindu domination.

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This Council directs the Working Committee to prepare forthwith a programme of Direct Action to carry out the policy enunciated above and to organise the Muslims for the coming struggle to be launched as and when necessary.

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## ELECTIONS TO THE CONSTITUENT ASSEMBLY

### July, 1946

[The Cabinet Mission's Statement of May 16, 1946 (see Document No. 48) had set out in detail procedure regarding elections to the Constituent Assembly. The Statement rejected the idea of election based on adult franchise on the ground that it would lead to a wholly unacceptable delay in the formulation of the new constitution. The only practicable alternative, according to the Statement was to utilise the recently elected Provincial Legislative Assemblies as the election bodies. Statements (i) and (ii) issued by the Press Information Bureau in June/July reproduced below, respectively show the table of representation as laid down in the Cabinet Mission's Statement of May 16, and the Party-wise composition of Provincial Assemblies at the time of elections to the Constituent Assembly. The elections took place in July. As the method of selection of the States representatives (93 seats) was yet to be decided by negotiation between the Princes and the Constituent Assembly, elections for only 296 seats were held. An analysis of the election results as issued by the Press Information Bureau on August 3, along with a list of members elected to the Assembly is reproduced below.]

### (I) TABLE OF REPRESENTATION

[Vide para 19(1) of the May 16 Statement]

SECTION A										
Province										
General										
Muslim										
Total										
Madras	.	.	.	.	.	.	.	45	4	49
Bombay	.	.	.	.	.	.	.	19	2	21
United Provinces	.	.	.	.	.	.	.	47	8	55
Bihar	.	.	.	.	.	.	.	31	5	36
Central Provinces	.	.	.	.	.	.	.	16	1	17
Orissa	.	.	.	.	.	.	.	9	0	9
TOTAL								167	20	187
Delhi	.	.	.	.	.	.	.	.	.	1
Ajmer-Merwara	.	.	.	.	.	.	.	.	.	1
Coorg	.	.	.	.	.	.	.	.	.	1
										190

## SECTION B

Province	General	Muslim	Sikh	Total
Punjab . . . . .	8	16	4	28
N.W.F.P. . . . .	0	3	0	3
Sind . . . . .	1	3	0	4
TOTAL . . . . .	9	22	4	35
Baluchistan . . . . .				1
				36

## SECTION C

Province	General	Muslim	Total
Bengal . . . . .	27	33	60
Assam . . . . .	7	3	10
TOTAL . . . . .	34	36	70
TOTAL FOR BRITISH INDIA . . . . .			296
MAXIMUM FOR INDIAN STATES . . . . .			93
	TOTAL		389

(II) STATEMENT SHOWING THE PARTY-WISE COMPOSITION OF  
PROVINCIAL ASSEMBLIES AT THE TIME OF THE ELECTIONS TO THE  
CONSTITUTION-MAKING BODY (C.M.B.)

(Based on Press Reports etc.)

## GROUP A

## MADRAS

General : Total Members : 186 Representatives to be elected to C.M.B. : 45  
Muslim : Total Members : 29. Representatives to be elected to C.M.B. : 4

Congress . . . . .	163	Muslim League . . . . .	28
Nationalist Hindu . . . . .	1	(Vacant . . . . .)	1)
Communists . . . . .	2		
Europeans . . . . .	7		
Anglo-Indians . . . . .	2		
Indian Christians . . . . .	3		
Landholders . . . . .	3		
Commerce . . . . .	2		
Independent (Women) . . . . .	1		
(Vacant . . . . .)	2)		

## BOMBAY

General : Total Members : 144. Representatives to be elected to C.M.B. : 19		Muslim : Total Members : 29. Representatives to be elected to C.M.B. : 2	
Congress . . . . .	128	Muslim League . . . . .	31
Communists . . . . .	2		
Radical Democrat . . . . .	1		
Hindu Mahasabha . . . . .	1		
Europeans . . . . .	6		
Anglo-Indians . . . . .	2		
Independents . . . . .	4		

## UNITED PROVINCES

General : Total Members : 160. Representatives to be elected to C.M.B. : 47		Muslim : Total Members : 68. Representatives to be elected to C.M.B. : 8	
Congress . . . . .	148	Muslim League . . . . .	54
Europeans . . . . .	3	Congress . . . . .	4
Anglo-Indian . . . . .	1	Ahrars . . . . .	1
Indian Christian . . . . .	1	Nationalist Muslims . . . . .	7
Commerce . . . . .	2	Independent Muslims . . . . .	2
Landholders . . . . .	5		

## BIHAR

General : Total Members : 112. Representatives to be elected to C.M.B. : 31		Muslim : Total Members : 40. Representatives to be elected to C.M.B. : 5	
Congress . . . . .	97	Muslim League . . . . .	34
Adibasis . . . . .	3	Momins . . . . .	5
Anglo-Indian . . . . .	1	Congress . . . . .	1
Indian Christian . . . . .	1		
Europeans . . . . .	3		
Commerce . . . . .	2		
Landholders . . . . .	4		
University . . . . .	1		

## CENTRAL PROVINCES

General : Total Members : 97. Representatives to be elected to C.M.B. : 16		Muslim : Total Members : 15. Representatives to be elected to C.M.B. : 1	
Congress . . . . .	93	Muslim League . . . . .	13
Scheduled Castes Federation . . . . .	1	Congress . . . . .	1
Hindu Mahasabha . . . . .	1	Independent . . . . .	1
European . . . . .	1		
Anglo-Indian . . . . .	1		

## ORISSA

General : Total Members : 56. Representatives to be elected to C.M.B. : 9		Muslim : Total Members : 4. Representatives to be elected to C.M.B. : 0	
Congress . . . . .	47	Muslim League . . . . .	4
Communist . . . . .	1		
Landholders . . . . .	2		
Backward Tribes (Nominated) . . . . .	4		
Independents . . . . .	2		

## GROUP B

## PUNJAB

General : Total Members : 51. Representatives to be elected to C.M.B. : 8		Muslim : Total Seats : 91. Representatives to be elected to C.M.B. : 16		Sikh : Total Members : 33. Representatives to be elected to C.M.B. : 4	
Congress . . . . .	40	Muslim League . . . . .	80	Akalis . . . . .	23
Unionists . . . . .	6	Unionists . . . . .	6	Congress . . . . .	10
European . . . . .	1	Congress . . . . .	1		
Indian Christian . . . . .	1	Ahrars . . . . .	1		
Independent Labour . . . . .	1	(Vacant . . . . .)	3)		
Independent . . . . .	1				
Anglo-Indian . . . . .	1				

## N. W. F. P.

General : Total Members : 9*. Representatives to be elected to C.M.B. : 0		Muslim : Total Members : 38. Representatives to be elected to C.M.B. : 3	
Congress . . . . .	9	Congress . . . . .	19
		Jamiat-ul-Ulema . . . . .	2
		Muslim League . . . . .	17

\*Excluding three Sikhs (Congress 2; Akalis 1).



## SIND

General : Total Members : 25. Representatives to be elected to C.M.B.: 1		Muslim : Total Members : 35. Representatives to be elected to C.M.B.: 3	
Congress . . . . .	22	Muslim League . . . . .	28
Europeans . . . . .	3	Syed Group . . . . .	4
		Nationalist Muslims . . . . .	3

## GROUP C

## BENGAL

General : Total Members : 127. Representatives to be elected to C.M.B.: 27		Muslim : Total Members : 123. Representatives to be elected to C.M.B.: 33	
Congress . . . . .	86	Muslim League . . . . .	115
Hindu Mahasabha . . . . .	1	Krishak Praja . . . . .	3
Communists . . . . .	3	Congress . . . . .	1
Sch. Castes Federation . . . . .	1	Independents . . . . .	4
Anglo-Indians . . . . .	4		
Europeans . . . . .	25		
Indian Christians . . . . .	2		
Landholders . . . . .	1		
Independents (Sch. Castes) . . . . .	4		

## ASSAM

General : Total Members : 74. Representatives to be elected to C.M.B.: 7		Muslim : Total Members : 34. Representatives to be elected to C.M.B.: 3	
Congress . . . . .	58	Muslim League . . . . .	31
Europeans . . . . .	9	Jamiat-ul-Ulema . . . . .	3
Tribal League . . . . .	1		
Indian Christian . . . . .	1		
Backward Tribes . . . . .	4		
Labour . . . . .	1		

(III) ELECTION-ANALYSIS SHOWING THE RELATIVE STRENGTH OF  
POLITICAL PARTIES

(The figures below may be treated as approximate—the party affiliation and community of all candidates, *not* being ascertainable from Press reports or other publications)

(a) *In the Union Constituent Assembly*

		Strength	Percentage of total seats	Per- centage of seats for British India
<i>*The Congress including :</i>				
<i>(a) Congressmen</i>				
General . . . . .	171	} 175	44.98	59.12
Muslim . . . . .	4			
<i>(b) Congress Nominees other than Congressmen</i>				
General . . . . .	30	} 30	7.71	10.14
Muslim . . . . .	0			
<i>The Muslim League</i> . . . . .		73	18.76	24.66
<i>Unionists</i>				
General . . . . .	2	} 3	0.77	1.01
Muslim . . . . .	1			
<i>Communists</i>				
General . . . . .	1	1	0.26	0.33
<i>Scheduled Castes Federation</i>				
General . . . . .	1	1	0.26	0.33
<i>Backward Tribes</i>				
General . . . . .	2	2	0.51	0.66
<i>Landlords</i>				
General . . . . .	3	3	0.77	1.01
<i>Commerce &amp; Industry (Independents)</i>				
General . . . . .	2	2	0.51	0.66
<i>Krishak Proja</i>				
Muslim . . . . .	1	1	0.26	0.33
<i>Shahid Jirga</i>				
Muslim . . . . .	1	1	0.26	0.33
<i>Vacant</i>				
Sikh . . . . .	4	4	1.03	1.35
States (Max.) . . . . .	93	93	23.90	..
TOTAL .		389	99.98	99.93

\*The total under this head comes to 205; percentage of total seats, 52.69; percentage of seats in British India, 69.26.

*(b) In section 'A'*

(Total Seats: 190)

				Percentage of total seats in Group	
<i>The Congress</i>					
<i>(a) Congressmen</i>					
Madras . . . . .	34	(General)	}	142	74·74
Bombay. . . . .	17	(General)			
U. P. . . . .	43	(General 42, Muslim 1)			
Bihar . . . . .	24	(General)			
C. P. . . . .	13	(General)			
Orissa . . . . .	8	(General)			
Coorg . . . . .	1				
Delhi . . . . .	1				
Ajmer-Merwara . . . . .	1				
<i>(b) Congress Nominees, other than Congressmen</i>					
Madras . . . . .	11	(General)	}	22	11·58
Bombay. . . . .	2	(General)			
U. P. . . . .	2	(General)			
C. P. . . . .	3	(General)			
Bihar . . . . .	4	(General)			
<i>The Muslim League</i>					
Madras . . . . .	4		}	19	10·00
C. P. . . . .	1				
Bombay. . . . .	2				
U. P. . . . .	7				
Bihar . . . . .	5				
<i>Backward Tribes</i>					
Bihar . . . . .	1	(General)	}	2	1·05
Orissa . . . . .	1	(General)			
<i>Landlords</i>					
U. P. . . . .	1	(General)	}	3	1·58
Bihar . . . . .	2	(General)			
<i>Commerce and Industry (Independents)</i>					
U. P. . . . .	2	(General)		2	1·05
				190	100·00

## (c) In Section 'B'

(Total Seats : 36)

					Percentage of total seats in Group			
<i>The Congress</i>								
(a) Congressmen								
Punjab	.	.	.	.	5 (General)	}	8	22.22
N.W.F.P.	.	.	.	.	2 (Muslim)			
Sind	.	.	.	.	1 (General)			
(b) Congress Nominees, other than Congressmen								
Punjab	.	.	.	.	1 (General)		1	2.77
<i>The Muslim League</i>								
Punjab	.	.	.	.	15	}	19	52.77
N.W.F.P.	.	.	.	.	1			
Sind	.	.	.	.	3			
<i>Unionists</i>								
Punjab	.	.	.	.	3 (General 2, Muslim 1)	}	3	8.33
<i>Shahid Jirga</i>								
Baluchistan	.	.	.	.	1 (Muslim)		1	2.77
Vacant	.	.	.	.	4 (Sikh)		4	11.11
							36	99.97

## (d) In Section 'C'

(Total Seats: 70)

					Percentage of total seats in Group	
<i>The Congress</i>						
(a) Congressmen						
Bengal . . . . .	18	(General)	}	25	35.71	
Assam . . . . .	7	(General)				
(b) Congress Nominees, other than Congressmen						
Bengal . . . . .	7	(General)		7	10.00	
<i>The Muslim League</i>						
Bengal . . . . .	32	}		35	50.00	
Assam . . . . .	3					
<i>Communists</i>						
Bengal . . . . .	1	(General)		1	1.43	
<i>Scheduled Castes Federation</i>						
Bengal . . . . .	1	(General)		1	1.43	
<i>Krishak Proja</i>						
Bengal . . . . .	1	(Muslim)		1	1.43	
					70	100.00

(IV) IMPORTANT PERSONALITIES ELECTED TO  
THE CONSTITUENT ASSEMBLY

(a) *Party Leaders*

1. President of the Indian National Congress : Jawaharlal Nehru
2. President of the All-India Muslim League : Mahomed Ali Jinnah
3. President in Chief of the Anglo-Indian Association : Frank Reginald Anthony  
(nominated by the Congress party)
4. President of the All-India Hindu Mahasabha : Syama Prasad Mookerjee (nominated  
by the Congress party)
5. Leader of the All-India Scheduled Castes Federation : Bhimrao Ramji Ambedkar
6. President of the All-India Depressed Classes League : Jagjivan Ram (nominated  
by the Congress party)
7. President of the All-India Women's Conference : Mrs. Hansa Mehta (nominated  
by the Congress party)
8. President of All-India Landholders' Association : Kameshwar Singh (Maharaja-  
dhiraja of Darbhanga.)

(b) *Premiers of Provinces*

1. T. Prakasam (Madras)—*Congress*
2. B. G. Kher (Bombay)—*Congress*
3. Harekrushna Mahtab (Orissa)—*Congress*
4. Govind Ballabh Pant (U.P.)—*Congress*
5. R. S. Shukla (C.P.)—*Congress*
6. Sri Krishna Sinha (Bihar)—*Congress*
7. H. S. Suhrawardy (Bengal)—*Muslim League*
8. Gopinath Bardoloi (Assam)—*Congress*

(c) *Ministers of Provinces*

1. Mrs. Vijaya Lakshmi Pandit (U.P.)—*Congress*
2. Kailash Nath Katju (U.P.)—*Congress*
3. Rafi Ahmed Kidwai (U.P.)—*Congress*
4. Anugraha Narayan Sinha (Bihar)—*Congress*
5. Mehr Chand Khanna (N.W.F.P.)—*Congress*
6. Mozaffar Ali Khan Qazilbash (Punjab)—*Unionist*
7. M. A. Khuhro (Sind)—*Muslim League*
8. Pirzada Abdus Sattar (Sind)—*Muslim League*
9. Basant Kumar Das (Assam)—*Congress*
10. J. J. M. Nichols Roy (Assam)—*Congress*

(d) *Ex-Premiers of Provinces*

1. C. Rajagopalachari (Madras)—*Congress*
2. Raja of Bobbili (Ex-Chief Minister, Madras)—*Nominated by Congress*
3. Biswanath Das (Orissa)—*Congress*
4. A. K. Fazlul Huq (Bengal)—*Krishak Proja*
5. Khwaja Nazimuddin (Bengal)—*Muslim League*
6. Muhammad Saadulla (Assam)—*Muslim League*

(e) *Ex-Ministers, or ex-Members of Governors' Executive Council*

1. M. A. Muthiah Chettiar (Madras)—*Nominated by Congress*
2. P. Subbarayan (Madras)—*Congress*
3. B. Gopala Reddy (Madras)—*Congress*
4. V. I. Muniswami Pillai (Madras)—*Congress*
5. K. M. Munshi (Bombay)—*Congress*
6. Bodhram Dube (Orissa)—*Congress*
7. Maheshwar Dayal Seth (U.P.)—*Congress*
8. P. S. Deshmukh (C.P.)—*Nominated by Congress*
9. Sachchidananda Sinha (Bihar)—*Independent, nominated by Congress*
10. M. H. Gazdar (Sind)—*Muslim League*
11. Syama Prasad Mookerjee (Bengal)—*Hindu Mahasabha, nominated by Congress*
12. K. Shahabuddin (Bengal)—*Muslim League*
13. Tamizuddin Khan (Bengal)—*Muslim League*
14. Abdul Matin Choudhury (Assam)—*Muslim League*
15. Maulvi Abdul Hamid (Assam)—*Muslim League*
16. Rohini Kumar Choudhury (Assam)—*Congress*
17. Akshay Kumar Das (Assam)—*Congress*

(f) *Ex-Members of Governor-General's Executive Council*

1. Jwala Prasad Srivastava (Commerce and Industry)—*Independent*
2. Malik Muhammad Feroze Khan Noon—*Muslim League*
3. B. R. Ambedkar—*Scheduled Castes Federation*
4. M. Azizul Haque—*Muslim League*

(g) *Speakers of Provinces*

PURUSHOTTAMDAS TANDON (U.P.)—*Congress*

(h) *Ex-Speakers of Provinces*

SARDAR BAHADUR KHAN (N.W.F.P.)—*Muslim League*

(i) *Ex-High Court Judges*

BAKSHI TEK CHAND (Punjab)—*Nominated by Congress*

(j) *Ex-Dewans of States*

N. GOPALASWAMI AYYANGAR—*Nominated by Congress*

(V) WOMEN ELECTED TO THE CONSTITUENT ASSEMBLY

1. Mrs. Ammu Swaminathan (Madras)—*Congress*
2. Mrs. Dakshayani Velayudhan (Madras)—*Congress*

3. Mrs. Durga Bai (Madras)—*Congress*
4. Mrs. Hansa Mehta (Bombay)—*Congress*
5. Mrs. Malati Choudhury (Orissa)—*Congress*
6. Mrs. Sucheta Kripalani (U.P.)—*Congress*
7. Mrs. Vijaya Lakshmi Pandit (U.P.)—*Congress*
8. Mrs. Purnima Banerjee (U.P.)—*Congress*
9. Mrs. Kamala Choudhury (U.P.)—*Congress*
10. Begum Aizaz Rasul (U.P.)—*Muslim League*
11. Rajkumari Amrit Kaur (C.P.)—*Congress*
12. Mrs. Sarojini Naidu (Bihar)—*Congress*
13. Begum Jahanara Shah Nawaz (Punjab)—*Muslim League*
14. Mrs. Leela Roy (Bengal)—*Congress*
15. Begum Shaista Suhrawardy Ikramullah (Bengal)—*Muslim League*

(VI) NUMBER OF SEATS IN THE CONSTITUENT ASSEMBLY SECURED  
BY MEMBERS OF LEGISLATURES

Members, Council of State . . . . .	6
Members, Central Legislative Assembly . . . . .	28
Members, Provincial Legislatures :—	

	Legislative Assembly	Legislative Council	
Madras . . . . .	17	4	155
Bombay . . . . .	10	1	
Orissa . . . . .	5	..	
U.P. . . . .	29	3	
C.P. . . . .	8	..	
Bihar . . . . .	21	2	
Punjab . . . . .	15	..	
N.W.F.P. . . . .	2	..	
Sind . . . . .	3	..	
Bengal . . . . .	25	1	
Assam . . . . .	9	..	
	144	11	
Member, Coorg Legislative Council . . . . .		1	2
Member, Cochin Legislative Council . . . . .		1	
Others . . . . .			101
Vacant . . . . .			4
TOTAL FOR BRITISH INDIA . . . . .			296

## (VII) ANALYSIS BY PARTIES, COMMUNITIES AND INTERESTS

*Hindus (excluding Scheduled Castes)—*

Congress Nominees . . . . .	156	}	163
Unionist . . . . .	1		
Communist . . . . .	1		
Landlords . . . . .	3		
Commerce and Industry . . . . .	2		

*Scheduled Castes—*

Congress Nominees . . . . .	29	}	31
Scheduled Castes Federation . . . . .	1		
Unionist . . . . .	1		

*Muslims—*

Members of the Muslim League . . . . .	73	}	80
Congressmen . . . . .	4		
Unionist . . . . .	1		
Krishak Proja . . . . .	1		
Shahid Jirga . . . . .	1		

*Anglo-Indians*

Congress Nominees . . . . .	3	}	3
Others . . . . .	0		

*Indian Christians—*

*Congress Nominees . . . . .	6	}	6
Others . . . . .	0		

*Parsees—*

Congress Nominees . . . . .	3	}	3
Others . . . . .	0		

*Backward Tribes—*

Congress Nominees . . . . .	4	}	6
Independents . . . . .	2		

*Sikhs—*

Vacant . . . . .			4
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TOTAL FOR BRITISH INDIA

296

\*Does not include Rev. J. J. Nichols Roy from Assam who has been included among representatives of Backward Tribes.



*The Congress Party won :*

	No. of Seats	
All General Seats in Madras	45	} 205
All General Seats in C.P.	16	
All General Seats in Bombay	19	
All General Seats in Assam	7	
General Seats in Bengal (out of 27)	25	
General Seats in Bihar (out of 31)	28	
General Seats in U.P. (out of 47)	44	
General Seats in Orissa (out of 9)	8	
General Seats in Punjab (out of 8)	6	
The only General Seat in Sind	1	
The only seat in Coorg	1	
The only seat in Delhi	1	
The only seat in Ajmer-Merwara	1	
Muslim Seat in U.P. (out of 8)	1	} 2
Muslim Seats in N.W.F.P. (out of 3)	2	

*The Muslim League won :*

All Muslim Seats in Madras	4	} 73
All Muslim Seats in Bihar	5	
All Muslim Seats in Bombay	2	
All Muslim Seats in Sind	3	
All Muslim Seats in Assam	3	
The only Muslim Seat in C.P.	1	
Muslim Seats in U.P. (out of 8)	7	
Muslim Seats in Punjab (out of 16)	15	
Muslim Seats in N.W.F.P. (out of 3)	1	
Muslim Seats in Bengal (out of 33)	32	

*The Unionists won :*

General Seats in Punjab (out of 8)	2	} 3
Muslim Seats in Punjab (out of 16)	1	

*Communists won :*

General Seat in Bengal (out of 27)	1	1
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*Scheduled Castes Federation won :*

General Seat in Bengal (out of 27)	1	1
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*Backward Tribes won :*

General Seat in Bihar (out of 31)	1	} 2
General Seat in Orissa (out of 31)	1	

*Commerce and Industry (Independents) won :*

General Seats in U.P. (out of 47)	2	2
-----------------------------------	---	---

*Landlords won :*

General Seat in U.P. (out of 47)	1	} 3
General Seats in Bihar (out of 31)	2	

*Krishak Proja won :*

Muslim Seat in Bengal (out of 33)	1	1
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*Shahid Jirga won :*

The only seat in Baluchistan	1	1
Vacant (Sikhs 4) in Punjab		4

TOTAL FOR BRITISH INDIA

296

(viii) TABLE SHOWING THE NUMBER OF MEMBERS OF DIFFERENT PARTIES RETURNED TO THE CONSTITUENT ASSEMBLY FROM THE GENERAL AND MUSLIM PARTS OF EACH PROVINCIAL LEGISLATURE

Province	Congressmen		Congress nominees, other than Congressmen		Muslim League (Muslim)	Unionist		Sch. Castes Federa- tion (General)	Backward Tribes (General)	Landlords (General)	Commerce & Industry (General)	Communists (General)	Krishak Proja (Muslim)	Shahid Jirga (Muslim)	TOTAL
	General	Muslim	General	Muslim		General	Muslim								
Madras	34	..	11	..	4	..	..	..	..	..	..	..	..	..	49
Bombay	17	..	2	..	2	..	..	..	..	..	..	..	..	..	21
U.P.	42	1	2	..	7	..	..	..	..	..	2	..	..	..	55
Bihar	24	..	4	..	5	..	..	..	..	..	..	..	..	..	36
C. P.	13	..	3	..	1	..	..	..	..	2	..	..	..	..	17
Orissa	8	..	..	..	..	..	..	..	1	..	..	..	..	..	9
Coorg	1	..	..	..	..	..	..	..	..	..	..	..	..	..	1
Delhi	..	1	..	..	..	..	..	..	..	..	..	..	..	..	1
Ajmer-Merwara.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Punjab	5	..	1	..	15	2	1	..	..	..	..	..	..	..	24
N.W.F.P.	..	2	..	..	1	..	..	..	..	..	..	..	..	..	3
Sind	1	..	..	..	3	..	..	..	..	..	..	..	..	1	4
Baluchistan	..	..	..	..	..	..	..	1	..	..	..	1	1	..	1
Bengal	18	..	7	..	32	..	..	..	..	..	..	..	..	..	60
Assam	7	..	..	..	3	..	..	..	..	..	..	..	..	..	10
TOTAL	171	4	30	..	73	2	1	1	2	3	2	1	1	1	292
												Vacant (Sikh)			4
															296
															TOTAL FOR BRITISH INDIA

(IX) TABLE SHOWING THE NUMBER OF MEMBERS OF DIFFERENT COMMUNITIES RETURNED  
TO THE CONSTITUENT ASSEMBLY FROM THE GENERAL AND  
MUSLIM PARTS OF EACH PROVINCIAL LEGISLATURE

Province	Hindus (excluding Sch. Castes)	Scheduled Castes	Muslims	Anglo- Indians	Indian Christians	Parsees	Backward Tribes	TOTAL
Madras	35	7	4	1	2	..	..	49
Bombay	15	2	2	..	1	1	..	21
U. P.	41	4	8	..	1	1	..	55
Bihar	24	4	5	..	..	..	3	36
C. P.	10	3	1	1	1	1	..	17
Orissa	7	1	..	..	..	..	1	9
Coorg	1	..	..	..	..	..	..	1
Ajmer-Merwara	1	..	..	..	..	..	..	1
Delhi	..	2	16	..	..	..	..	24
Punjab	6	..	3	..	..	..	..	3
N.W.F.P.	..	..	3	..	..	..	..	4
Sind	1	..	1	..	..	..	..	1
Baluchistan	..	7	33	1	1	..	..	60
Bengal	18	1	3	..	..	..	2	10
Assam	4	..	..	..	..	..	..	..
TOTAL	163	31	80	3	6	3	6	292
						Vacant (Sikh)		4
						TOTAL FOR BRITISH INDIA		296

## (x) LIST OF MEMBERS ELECTED TO THE CONSTITUENT ASSEMBLY

## MADRAS

## General—45 Members

*45 Members nominated by Congress :*

1. C. Rajagopalachari (Member of the Congress Working Committee, Former Premier of Madras).
2. Pattabhi Sitaramayya (Former member of the Congress Working Committee).
3. T. Prakasam (Premier of Madras).
4. N. Gopalaswami Ayyangar (Member of the Council of State, Former Prime Minister of Kashmir).
5. Alladi Krishnaswami Ayyar (Former Advocate-General of Madras).
6. M. Ananthasayanam Ayyangar (M.L.A., Central).
7. Raja of Bobbili (Chief Minister of Madras, 1932-37, A leader of Justice party).
8. M. A. Muthia Chettiar (M.L.A., Provincial).
9. Mrs. Ammu Swaminathan (M.L.A., Central).
10. Ramnath Goenka (Managing Director of the "Indian Express", Madras).
11. T. T. Krishnamachari (Former M.L.A., Central).
12. P. Subbarayan (Former Minister of Madras).
13. Fr. Jerome D'Souza (Principal of the Loyola College, Madras).
14. Mrs. Dakshayani Velayudhan (Member of the Cochin Legislative Council).
15. B. Gopala Reddi (M.L.A., Provincial. Former Minister of Madras).
16. D. Govinda Doss.
17. K. Kamaraj Nadar (M.L.A., Provincial. President of the Tamilnad Provincial Congress Committee).
18. K. Madhava Menon (Member of the Madras Legislative Council, President of the Kerala Congress Committee).
19. P. Kunhiraman.
20. V. I. Muniswami Pillai (M.L.A., Provincial. Former Minister of Madras).
21. V. Nadimuthu Pillai (Former M.L.A., Provincial).
22. S. Nagappa (M.L.A., Provincial).
23. P. L. Narasimha Raju (M.L.A., Provincial).
24. C. Perumalswami Reddiar.
25. T. A. Ramalingam Chettiar (M.L.A., Central).
26. O. P. Ramaswami Reddiar (Member of the Madras Legislative Council).
27. N. G. Ranga (M.L.A., Central. President of the Andhra P.C.C.).
28. N. Sanjeeva Reddi (M.L.A., Provincial).
29. S. H. Prater (M.L.A., Bombay).
30. U. Srinivasa Mallayya (M.L.A., Provincial).
31. Kala Venkata Rao (M.L.A., Provincial).
32. P. Kakkan (M.L.A., Provincial).
33. M. C. Veerabahu Pillai.
34. T. J. M. Wilson (M.L.A., Provincial).
35. V. C. Kesava Rao.
36. K. Santhanam (Former M.L.A., Central, Member of Congress Expert Committee and Joint Editor, "Hindusthan Times").
37. B. Shiva Rao (Journalist).

38. H. Sitarama Reddi.
39. C. Subramaniam.
40. V. Subramaniam.
41. P. M. Velayudhapani.
42. O. V. Alagesan.
43. K. Chandramouli (M.L.A., Provincial).
44. L. Krishnaswami Bharathi (Former M.L.A., Provincial).
45. Mrs. G. Durga Bai.

#### Muslims—4 Members

##### 4 Members nominated by Muslim League :

1. Abdul Sathar H. Issaq Sait (M.L.A., Central).
2. K. T. M. Ahmed Ibrahim (Member, Madras Legislative Council).
3. A. Mahaboob Ali Baig (M.L.A., Provincial).
4. B. Pocker (M.L.A., Provincial).

#### BOMBAY

#### General—19 Members

##### 19 Members nominated by Congress :

1. Vallabhbhai Patel (Member, Congress Working Committee, Former Congress President).
2. Shankarrao Deo (Former Member of the Congress Working Committee).
3. B. G. Kher (Premier of Bombay).
4. Kanyalal Desai (President of the Gujarat Provincial Congress Committee).
5. K. M. Munshi (Former Home Minister, Bombay).
6. R. R. Diwakar (Former President of the Karnatak Provincial Congress Committee).
7. Alban D'Souza (M.L.A., Provincial).
8. N. V. Gadgil (M.L.A., Central).
9. B. M. Gupte (M.L.A., Provincial).
10. K. M. Jedhe (President of the Maharashtra Provincial Congress Committee).
11. S. N. Mane (M.L.A., Provincial).
12. Mrs. Hansa Mehta (President of the All India Women's Conference).
13. R. M. Nalwade (M.L.A. Provincial).
14. S. Nijalingappa (President of the Karnatak Provincial Congress Committee).
15. S. K. Patil (President of the Bombay Provincial Congress Committee).
16. M. R. Masani (M.L.A., Provincial).
17. M. R. Jayakar (Privy Councillor).
18. H. V. Pataskar (M.L.A., Provincial).
19. Khandubhai Desai (M.L.A., Provincial).

#### Muslim—2 Members

##### 2 Members nominated by Muslim League :

1. I. I. Chundrigar (M.L.A., Provincial, and leader of the Opposition. President of the Bombay Provincial Muslim League).
2. Abdul Kader Sheikh (M.L.A., Provincial).

## (X) LIST OF MEMBERS ELECTED TO THE CONSTITUENT ASSEMBLY

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8. M. A. Muthia Chettiar (M.L.A., Provincial).
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32. P. Kakkan (M.L.A., Provincial).
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2. K. T. M. Ahmed Ibrahim (Member, Madras Legislative Council).
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6. R. R. Diwakar (Former President of the Karnatak Provincial Congress Committee).
7. Alban D'Souza (M.L.A., Provincial).
8. N. V. Gadgil (M.L.A., Central).
9. B. M. Gupte (M.L.A., Provincial).
10. K. M. Jedhe (President of the Maharashtra Provincial Congress Committee).
11. S. N. Mane (M.L.A., Provincial).
12. Mrs. Hansa Mehta (President of the All India Women's Conference).
13. R. M. Nalwade (M.L.A. Provincial).
14. S. Nijalingappa (President of the Karnatak Provincial Congress Committee).
15. S. K. Patil (President of the Bombay Provincial Congress Committee).
16. M. R. Masani (M.L.A., Provincial).
17. M. R. Jayakar (Privy Councillor).
18. H. V. Pataskar (M.L.A., Provincial).
19. Khandubhai Desai (M.L.A., Provincial).

#### Muslim—2 Members

##### 2 Members nominated by Muslim League :

1. I. I. Chundrigar (M.L.A., Provincial, and leader of the Opposition. President of the Bombay Provincial Muslim League).
2. Abdul Kader Sheikh (M.L.A., Provincial).

## ORISSA

## General—9 Members

## 8 Members nominated by Congress :

1. Harekrushna Mahatab (Premier of Orissa, Former member of the Congress Working Committee).
2. Biswanath Das (Former Premier of Orissa).
3. Mrs. Malati Chowdhury (President of the Utkal Provincial Congress Committee).
4. Bodhram Dube (Former Minister of Orissa).
5. B. Das (Former M.L.A., Central).
6. Rajkrishna Bose (M.L.A., Provincial).
7. Nanda Kishore Das (Former Deputy Speaker of the Orissa Legislative Assembly).
8. Santanu Kumar Das (M.L.A., Provincial).

## 1 Independent Member :

1. Laxminarayan Sahu (M.L.A., Provincial).

## UNITED PROVINCES

## General—47 Members

## 44 Members nominated by Congress :

1. Jawaharlal Nehru (President of the Indian National Congress).
2. Purushottamdas Tandon (Speaker of the U.P. Legislative Assembly).
3. Govind Ballabh Pant (Premier of U.P. Member of the Congress Working Committee).
4. S. Radhakrishnan (Vice-Chancellor of the Banares Hindu University).
5. J. B. Kripalani (Former General Secretary of the Indian National Congress).
6. Shri Krishna Dutt Paliwal (M.L.A., Central).
7. Jogendra Singh (M.L.A., Central).
8. A. Dharam Dass (M.L.A., Provincial. Indian Christian).
9. Mrs. Sucheta Kripalani.
10. Mrs. Vijaya Lakshmi Pandit (Minister for Health and Local Self-Government U.P.).
11. Mrs. Purnima Banerjee (M.L.A., Provincial).
12. Kailash Nath Katju (Minister for Justice and Agriculture, U.P.).
13. Hriday Nath Kunzru (Member of the Council of State; President of the Servants of India Society).
14. Mrs. Kamala Chaudhri.
15. Dayal Das Bhagat (M.L.A., Provincial).
16. Dharam Prakash.
17. Masuria Din (M.L.A., Provincial).
18. Sundar Lal.
19. Bhagwan Din (M.L.A., Provincial).
20. Pragi Lal.
21. Damodar Swarup (M.L.A., Central. President of the U.P. Provincial Congress Committee).
22. Govind Malaviya (M.L.A., Central).
23. Balkrishna Sharma (M.L.A., Central).
24. Sri Prakasa (M.L.A., Central).
25. Mohan Lal Saxena (M.L.A., Central).
26. Ram Chandra Gupta.



27. Maheswar Dayal Seth (Landholder).
28. Hargovind Pant (M.L.A., Provincial).
29. Hariharnath Shastri.
30. Shibban Lal Saxena.
31. Ajit Prasad Jain (M.L.A., Provincial. Former Parliamentary Secretary).
32. Vishwambhar Dayal Tripathi (M.L.A., Provincial).
33. Feroz Gandhi (Parsee).
34. Kamlapati Tewari (M.L.A., Provincial).
35. R. V. Dhulekar (M.L.A., Provincial).
36. Algu Rai Shastri (M.L.A., Provincial).
37. Phool Singh (M.L.A., Provincial).
38. Venkatesh Narain Tewari (M.L.A., Provincial. Former Parliamentary Secretary).
39. Gopinath Srivastava (Former Parliamentary Secretary).
40. Gopal Narain (M.L.A., Provincial).
41. Banshi Dhar Misra (M.L.A., Provincial).
42. Khurshed Lal.
43. Jaspat Rai Kapoor.
44. Jugal Kishore (M.L.A., Provincial. Former Parliamentary Secretary. General Secretary of the Congress Assembly Party).

3 *Independent Members :*

1. Jagannath Baksh Singh (M.L.A., Provincial).
2. Jwala Prasad Srivastava (Industrialist and former member of the Viceroy's Executive Council).
3. Padampat Singhania (Industrialist).

Muslim—8 Members

7 *Members nominated by Muslim League :*

1. Mohammad Ismail Khan (M.L.A., Central. Member, Muslim League Working Committee).
2. Chaudhri Khaliquzzaman (M.L.A., Provincial, and leader of the Opposition. Member of the All-India Muslim League Working Committee).
3. Amir Haider Khan (M.L.A., Provincial).
4. Begum Aizaz Rasul (Member of the Legislative Council and leader of the Muslim League party in the Council).
5. S. M. Rizwanullah (M.L.A., Provincial and Secretary of the Muslim League Assembly Party).
6. Aziz Ahmad Khan (M.L.A., Provincial).
7. Hasrat Mohani (M.L.A., Provincial).

1 *Member nominated by Congress :*

1. Rafi Ahmed Kidwai (Revenue Minister, U.P. Member of the Congress Working Committee).

C. P. & BERAR

General—16 Members

16 *Members nominated by Congress :*

1. Guru Agamdas Agarmandas (M.L.A., Provincial).
2. Laxman Shrawan Bhatkar (Former M.L.A., Provincial).
3. Brijlal Nandal Biyani (Member of the Council of State. President of the Berar Provincial Congress Committee).

4. Thakur Chhedilal (M.L.A., Provincial).
5. Punjabrao Shamrao Deshmukh (Minister of Education in C.P., 1930-33)
6. Shankara Tryambak.
7. Cecil Edward Gibbon (M.L.A., Punjab, Anglo-Indian).
8. Hari Singh Gour (Former M.L.A., Central).
9. Seth Govind Das (M.L.A., Central).
10. V. R. Kalappa (M.L.A., Provincial).
11. Hari Vishnu Kamath (Forward Bloc).
12. Rajkumari Amrit Kaur (Indian Christian, Punjab).
13. Hemchandra Jogoji Khandekar (M.L.A., Provincial).
14. Bhagwantrao Annabhan Mandoli (M.L.A., Provincial).
15. Ravi Shankar Shukla (Premier of C.P.).
16. Rustomji Khursedji Sidhwa (M.L.A., Sind. Parsee).

#### Muslim—1 Member

##### 1 Member nominated by Muslim League :

1. Kazi Syed Karimuddin (M.L.A., Provincial).

#### BIHAR

#### General—31 Members

##### 28 Members nominated by Congress :

1. Rajendra Prasad (Member of the Congress Working Committee. Former Congress President).
2. Bhagwat Prasad (M.L.A., Provincial).
3. Anugraha Narayan Singh (Finance Minister of Bihar).
4. Raghunandan Prasad (M.L.A., Provincial).
5. Jagjivan Ram (M.L.A., Provincial. Former Parliamentary Secretary).
6. Phulan Prasad Varma (M.L.A., Provincial).
7. Mahesh Prasad Sinha (M.L.A., Provincial).
8. Sarangdhar Singh (M.L.A., Provincial. Former Parliamentary Secretary).
9. Rameswar Prasad Singh (M.L.A., Provincial).
10. Devendranath Samanta (Adibasi).
11. Jadubans Sahay (M.L.A., Provincial).
12. Amiyo Kumar Ghosh (M.L.A., Provincial).
13. Satyanarayan Sinha (M.L.A., Central).
14. Kameleshwari Prasad Yadav (M.L.A., Provincial).
15. Dipnarain Singh.
16. Ramnarain Singh (M.L.A., Central).
17. Guptanath Singh (M.L.A., Provincial).
18. Jagdish Narain Lal.
19. Sri Krishna Sinha (Premier of Bihar).
20. Boniface Larke (Adibasi).
21. Brajeswar Prasad.
22. Chandrika Ram.
23. Sri Narain Mahtha (Member of the Council of State).
24. Deshbandhu Gupta (Delhi Journalist).
25. Banarsi Prasad Jhunjunwala (M.L.A., Central).
26. P. K. Sen (Former Judge, Patna High Court).
27. Mrs. Sarojini Naidu (Former Congress President).

28. Sachchidananda Sinha (M.L.A., Provincial. Former Vice-Chancellor of the Patna University).

3 *Independent Members :*

1. The Maharaja of Darbhanga (President, All-India Land-holders' Association).
2. Shyam Nandan Sahay (Member of the Legislative Council).
3. Jaipal Singh (Adibasi).

Muslim—5 Members

5 *Members nominated by Muslim League :*

1. Hussain Imam (Member of the Council of State).
2. Latifur Rahman (M.L.A., Provincial. Member of the All-India Muslim League Working Committee).
3. Tajamul Husain (M.L.A., Provincial).
4. Saiyid Jaffar Imam (M.L.A., Provincial).
5. Muhammad Tahir (M.L.A., Provincial).

COORG

1. C. M. Poonacha (Congress).

DELHI

1. Asaf Ali (Congress : M.L.A., Central).

AJMER-MERWARA

1. Mukut Bihari Lal Bhargava (Congress : M.L.A., Central).

PUNJAB

General—8 Members

6 *Members nominated by Congress :*

1. Gopi Chand Bhargava (M.L.A., Provincial).
2. Shri Ram Sharma (M.L.A., Provincial).
3. Bakshi Tek Chand (Former Judge of Lahore High Court).
4. Prithvi Singh Azad (M.L.A., Provincial).
5. Diwan Chaman Lal (M.L.A., Central).
6. Mehr Chand Khanna (Finance Minister, North-West Frontier Province).

2 *Members nominated by the United Party :*

1. Chaudhri Suraj Mal (M.L.A., Provincial).
2. Chaudhri Harbhaj Ram (M.L.A., Provincial).

Muslim—16 Members

15 *Members nominated by Muslim League :*

1. Mohammad Ali Jinnah (President of the All-India Muslim League, M.L.A., Central).
2. Abdur Rab Nishtar (Member of the Working Committee, All-India Muslim League, from N.W.F.P.).
3. Iftikhar Hussain Khan of Mamdot (M.L.A., Provincial, Leader of the Opposition in the Punjab Assembly. Member of the Working Committee, All-India Muslim League).

4. Mian Mumtaz Muhammad Khan Daultana (M.L.A., Provincial, General Secretary of the Punjab Provincial Muslim League).
  5. Feroz Khan Noon (M.L.A., Provincial. Former Member of the Viceroy's Executive Council).
  6. Ghazanfar Ali Khan (M.L.A., Provincial).
  7. Abu Bakar Ahmad Haleem (Professor, Aligarh University. M.L.A., U.P.).
  8. Mian Muhammad Iftikharud-Din (M.L.A., Provincial. Former President of the Punjab Provincial Congress Committee).
  9. Chaudhri Muhammad Hassan (M.L.A., Provincial).
  10. Sheikh Karamat Ali (M.L.A., Provincial. Member of the Working Committee, All-India Muslim League).
  11. Begum Jahan Ara Shah Nawaz (M.L.A., Provincial).
  12. Syed Ghulam Bhik Nairang (M.L.A., Central).
  13. Chaudhri Nazir Ahmad Khan.
  14. Malik Omar Hayat (Principal of the Islamia College, Lahore).
  15. Syed Amjad Ali (Former M.L.A., Provincial).
- 1 *Member nominated by the Unionist Party :*
1. Muzaffar Ali Khan Qazilbash (Revenue Minister, Punjab).

#### N.W.F. PROVINCE

#### Muslim—3 Members

#### 2 *Members nominated by Congress :*

1. Abul Kalam Azad (Former President of the Indian National Congress. Member of the Congress Working Committee).
2. Abdul Ghaffar Khan (Member of the Congress Working Committee).

#### 1 *Member nominated by Muslim League :*

1. Sardar Bahadur Khan (M.L.A., Provincial. Former Speaker, N.W.F.P. Assembly).

#### SIND

#### General—1 Member

#### 1 *Member nominated by Congress :*

1. Jairamdas Daulatram (Former Member of the Congress Working Committee).

#### Muslim—3 Members

#### 3 *Members nominated by Muslim League :*

1. M. A. Khuhro (Minister for Public Works, Sind).
2. Abdus Sattar (Minister for Education, Health and Local Self-Government. Sind).
3. M. H. Gazdar (President of the Sind Provincial Muslim League).

#### BALUCHISTAN

1. Mohammad Khan Jogazai (Independent).

## BENGAL

## General—27 Members

## 25 Members nominated by Congress :

1. Frank Reginald Anthony (President, Anglo-Indian Association).
2. Satya Ranjan Bakshi (Journalist).
3. Suresh Chandra Banerjee (M.L.A., Provincial).
4. Sarat Chandra Bose (Member, Congress Working Committee. Leader of the Congress Party, Central Assembly).
5. Raj Kumar Chakravarty (Professor, Bangabasi College).
6. Radhanath Das (M.L.A., Provincial).
7. Dharendra Nath Datta (M.L.A., Provincial).
8. Surendra Mohan Ghose (President, Bengal Provincial Congress Committee).
9. Prafulla Chandra Ghosh (Former Member, Congress Working Committee).
10. Arun Chandra Guha.
11. Damber Singh Gurung (M.L.A., Provincial).
12. Debi Prasad Khaitan (M.L.A., Provincial).
13. Uday Chand Mahtab (M.L.A., Provincial).
14. Jnanendra Chandra Majumdar (M.L.A., Provincial).
15. Ashutosh Mallick (M.L.A., Provincial).
16. H. C. Mookherjee (Christian. Retired Professor, Calcutta University).
17. Syama Prasad Mookerjee (M.L.A., Provincial. President, All-India Hindu Mahasabha).
18. Hem Chandra Naskar (M.L.A., Provincial).
19. Prasanna Deb Raikut (M.L.A., Provincial. Former Minister, Bengal).
20. Mrs. Lila Roy.
21. Dhananjay Roy (M.L.A., Provincial).
22. Kiran Sankar Roy (Leader of Congress Party in Bengal Assembly).
23. Prafulla Chandra Sen.
24. Priya Ranjan Sen (Lecturer, Calcutta University).
25. Pramatha Ranjan Thakur (M.L.A., Provincial).

## 1 Member nominated by the Scheduled Castes Federation :

1. B. R. Ambedkar (Former Member, Viceroy's Executive Council).

## 1 Member nominated by the Communist Party :

1. Somnath Lahiri.

## Muslim—33 Members

## 32 Members nominated by Muslim League :

1. A. M. Abdul Hamid (M.L.A., Provincial).
2. Abdulla Al-Mahmood.
3. Md. Abdulahel Baqui (M.L.A., Provincial).
4. Abul Hashem (M.L.A., Provincial, Secretary of Bengal Provincial Muslim League).
5. Abdul Kasem Khan.
6. M. S. Ali.
7. M. Altaf Ahmed.
8. M. Azizul Haque (Former Member of Viceroy's Executive Council).
9. Bazul Karim.
10. Ebrahim Khan (M.L.A., Provincial).
11. Fazlur Rahman (M.L.A., Provincial).

12. Formuzul Huq.
13. Ghiyasuddin Pathan (M.L.A., Bengal).
14. Hamidul Huq Chowdhury.
15. H. S. Suhrawardy (Premier of Bengal).
16. I. H. Qureshi (Professor, Delhi University).
17. M. A. H. Ispahani (Member of League Working Committee).
18. Liaquat Ali Khan (M.L.A., Central. Secretary of the League)
19. Mahmud Hussain (Reader, Dacca University).
20. Mazharul Huq (Professor, Dacca University).
21. Mohammad Hassan.
22. Mohammad Hussain Malik.
23. Mujibar Rahman Khan.
24. Khwaja Nazimuddin (Former Premier of Bengal).
25. K. Noorudin
26. Raghbir Absan.
27. Serajul Islam (M.L.A., Provincial).
28. Shabbir Ahmed Usmani (President, Jamiat-ul-Islam).
29. K. Shahabuddin (Former Minister, Bengal).
30. Begum S. S. Ikramullah.
31. Tamizuddin Khan (M.L.A., Central).
32. Yusuf Mirza.

1 *Member nominated by Krishak Proja Party :*

1. A. K. Fazlul Huq (M.L.A., Provincial. Former Premier of Bengal).

ASSAM

General—7 Members

7 *Members nominated by Congress :*

1. Gopinath Bardoloi (Premier of Assam).
2. Basanta Kumar Das (Home Minister, Assam).
3. J. J. M. Nichols-Roy (Minister, Assam, Christian).
4. Rohini Kumar Chaudhury (M.L.A., Central. Former Minister, Assam).
5. Omeo Kumar Das (M.L.A., Provincial).
6. Dharanidhar Basu-matari (M.L.A., Provincial).
7. Akshay Kumar Das (M.L.A., Provincial).

Muslims—3 Members

3 *Members nominated by Muslim League :*

1. Muhammad Saadulla (M.L.A., Provincial. Former Premier of Assam).
2. Abdul Matin Choudhury (M.L.A., Provincial. Former Minister of Assam).
3. Abdul Hamid (M.L.A., Provincial).

## SIKHS' DECISION TO JOIN THE CONSTITUENT ASSEMBLY

August 14, 1946

*[In response to appeals made by the Secretary of State and the Viceroy as also a resolution adopted by the Congress Working Committee on August 10, 1946, the Sikhs decided to reconsider their decision to boycott the Constituent Assembly [see Document Nos. 52(i) & (ii)], and on August 14, the Panthic Pratinidhi Board—a representative body of the Sikhs—adopted a resolution advising the Sikh M.L.As. to return their representatives to the Constituent Assembly. Some time later the representatives of the Sikhs were duly elected. The texts of the relevant resolutions of the Congress and the Panthic Pratinidhi Board are reproduced below.]*

### (I) CONGRESS RESOLUTION URGING SIKHS TO PARTICIPATE IN THE CONSTITUENT ASSEMBLY

August 10, 1946

THE WORKING COMMITTEE have learnt with regret of the decision of the Sikhs not to seek election to the Constituent Assembly. The committee are aware that injustice has been done to the Sikhs and they have drawn the attention of the Cabinet Delegation to it. They are however strongly of opinion that the Sikhs would serve their cause and the cause of the country's freedom better by participation in the Constituent Assembly than by keeping out of it. The committee therefore appeal to the Sikhs to reconsider their decision and express their willingness to take part in the Constituent Assembly. The Working Committee assure the Sikhs that the Congress will give them all possible support in removing their legitimate grievances and in securing adequate safeguards for the protection of their just interests in the Punjab.

### (II) PANTHIC PRATINIDHI BOARD RESOLUTION

August 14, 1946

The Panthic Pratinidhi Board met on August 11 and 14 to consider the situation created by the developments that have taken place since July 5

when the Board reiterated its decision to boycott the Constituent Assembly. During this period, the Secretary of State for India during the debate in the House of Commons on July 18 made an appeal to the Sikhs to reconsider their boycott decisions and His Excellency the Viceroy has also in replies to the communications from certain Sikh gentlemen expressed his willingness for the accommodation of the Sikh view-point.

The main factor is, however, the resolution of the Congress Working Committee of August 10 in which the Congress has recognized that injustice has been done to the Sikhs by the Cabinet Mission's proposals and has declared that it will give all possible support to the Sikhs in redressing their legitimate grievances and in securing for the Sikhs adequate safeguards for protecting their interests. The Congress Working Committee has further appealed to the Sikhs to reconsider their resolution of boycotting the Constituent Assembly. This resolution of the Working Committee must be read along with the Lahore Congress resolution of 1929—that no solution of the communal problems in any future constitution would be acceptable to the Congress that did not give full satisfaction to the Sikhs—as well as with the recent speeches and statements of eminent Congress leaders to the effect that the Sikhs must be given similar safeguards as are provided to the two major communities in Paras 15 and 19 of the Cabinet Mission's proposals.

Though the grave apprehensions of the Sikh community concerning their future under the Cabinet Mission scheme continue to exist, the appeal and the assurances of the Indian National Congress carry weight with the Board.

In these circumstances and after careful deliberations, the Board is of the view that the situation calls for an earnest effort by the Sikhs to give the Constituent Assembly method a fair trial to secure for the Sikhs similar safeguards in the Union and the provincial spheres as are provided for the two major communities in the long-term proposals.

The Panthic Board is further of the view that like the boycott method this method in order to be effective and successful requires the united, disciplined and determined support of the Panth, and the Board earnestly appeals to all Sikhs for all support.

If, unfortunately, such methods fail, then the Panth will be doubly justified in going back to its previous resolve of boycott and direct action and in calling out the Sikh members of the Constituent Assembly.

The Board therefore advises the Sikh M.L.As. to return their representatives to the Constituent Assembly and those Sikh representatives will raise the question of the safeguards mentioned above in the preliminary meeting of the Constituent Assembly and the Board expects that all the parties in the Assembly will support the Sikh demand in this behalf.



## ATTEMPTS TO SECURE MUSLIM LEAGUE'S CO-OPERATION

August-November 1946

*[Following the Muslim League's decision to revoke its earlier acceptance of the Cabinet Mission's Plan [see Document Nos. 48(i) and 60], the Congress and the Viceroy made fresh efforts to secure the League's cooperation in settling the future constitution as well as in the immediate task of setting up a representative Interim Government. Thus, on August 8, 1946, while informing League President Jinnah that in view of the League's changed policy towards the Plan, he had decided to invite the Congress to make proposals for an Interim Government, the Viceroy expressed the hope that later on the League might be persuaded to join that Government. On August 10, the Congress Working Committee adopted a resolution assuring the League that the Congress acceptance of the Mission's Plan was not, as the League had alleged, conditional. While the Congress did not approve of all the proposals contained in the statement of May 16, it accepted the scheme in its entirety and agreed that questions of interpretation would be decided by the procedure laid down in the statement itself. Ignoring these conciliatory gestures, the League observed August 16 as 'Direct Action Day' to press its demand for Pakistan.]*

On August 24, it was announced that an Interim Government of 12 members—seven belonging to the Congress, including one Scheduled Caste and one Muslim, two independent Muslims, a Sikh, a Christian and a Parsee—would shortly be formed. The same evening, in a broadcast to the Indian people, the Viceroy stressed the need for a Coalition Government and an early commencement of the work of constitution-making. He hoped that the League would reconsider its policy towards the Cabinet Mission's scheme and decide to join the Government. The Interim Government took office on September 2, with Jawaharlal Nehru as Vice-President and without any Muslim League member. Anxious to allay the League's misgivings in regard to the Congress stand on the question of grouping of provinces—the main issue between the two parties—Nehru observed in a broadcast on September 7, that he and his colleagues accepted the position of the Constituent Assembly sitting in Sections which would consider the question of the formation of groups. He invited the League to enter the Constituent Assembly as equals and partners with no binding commitments. Presumably, the Viceroy's and Nehru's appeals had some effect on Jinnah. At any rate, on a suggestion from the Viceroy, Jinnah had a meeting with B. N. Rau, the

*Constitutional Adviser of the Constituent Assembly, on September 18, at which he sought clarifications on various procedural points regarding the functioning of the Constituent Assembly. Jinnah's specific questions were later recorded in writing by B. N. Rau who sent his replies to them on September 22, along with a covering letter wherein he suggested that the League should join the Interim Government to work as a united team with the Congress.*

*Later, in his discussions with Nehru and the Viceroy on the question of the League's joining the Interim Government, Jinnah again insisted on the condition, which had been consistently opposed by the Congress (see Document Nos. 57 and 58), that there would be no Congress Muslim in the Government. He gave up the demand only after the Viceroy had categorically stated that each party was equally free to nominate its own representatives. On October 13, Jinnah wrote to the Viceroy that the League was willing to join the Interim Government, since "it will be fatal to leave the entire field of administration of the Central Government in the hands of the Congress". Subsequently, on October 26, the League joined the Government on the clear understanding that the League Council would reconsider their policy towards the May 16 statement and agree to participate in the Constituent Assembly. However, in spite of the Viceroy's reminders, the League Council was never summoned to revoke its decision to boycott the Assembly. Finally, in a statement made on November 21, Jinnah emphatically reiterated that League representatives would not attend the Constituent Assembly. Thus, once again there was a complete deadlock. The texts of the more important documents in regard to these developments are reproduced below.]*

### (I) CONGRESS RESOLUTION

August 10, 1946

THE WORKING COMMITTEE regret to note that the Council of the All-India Muslim League, reversing their previous decision, have decided not to participate in the Constituent Assembly. In this period of rapid transition from dependence on a foreign power to full independence, when vast and intricate political and economic problems have to be faced and solved, the largest measure of co-operation among the people of India and their representatives is called for, so that the change-over should be smooth and to the advantage of all concerned. The committee realise that there are differences in the outlook and objectives of the Congress and the Muslim League. Nevertheless, in the larger interests of the country as a whole and of the freedom of the people of India, the committee appeal for the co-operation of all those who seek the freedom and the good of the country, in the hope that co-operation in common tasks may lead to the solution of many of India's problems.

The committee have noted that criticisms have been advanced on behalf of the Muslim League to the effect that the Congress acceptance of the proposals contained in the Statement of May 16th was conditional. The committee wish to make it clear that while they did not approve of all the proposals contained in this Statement, they accepted the scheme in its entirety. They interpreted it so as to resolve the inconsistencies contained in it and fill the omissions in accordance with the principles laid down in that Statement. They hold that provincial autonomy is a basic provision and each province has the right to decide whether to form or join a group or not. Questions of interpretation will be decided by the procedure laid down in the Statement itself, and the Congress will advise its representatives in the Constituent Assembly to function accordingly.

The committee have emphasized the sovereign character of the Constituent Assembly, that is its right to function and draw up a constitution for India without the interference of any external power or authority. But the Assembly will naturally function within the internal limitations which are inherent in its task, and will therefore seek the largest measure of co-operation in drawing up a constitution of free India allowing the greatest measure of freedom and protection for all just claims and interests. It was with this object and with the desire to function in the Constituent Assembly and make it a success, that the Working Committee passed their resolution on June 26, 1946, which was subsequently ratified by the All-India Congress Committee on July 7, 1946. By that decision of the A.I.C.C., they must stand, and they propose to proceed accordingly with their work in the Constituent Assembly.

The committee hope that the Muslim League and all others concerned, in the wider interest of the nation as well as of their own, will join in this great task.

## (II) VICEROY'S BROADCAST

August 24, 1946

You will have heard the announcement of the names of the members of the new Interim Government which will come into office very shortly. You will, I am sure, all realise that a very momentous step forward has been taken on India's road to freedom. Some of you who listen to me may feel however, that the step should not have been taken in this way or at this time. It is to these that I want principally to address myself tonight.

You who are opposed to the formation of the new Government are not, I assume, opposed to the main policy of His Majesty's Government, namely, to fulfil their pledges by making India free to follow her own destiny. You will also, I think, all agree that we need at once a Government of Indians as representative as possible of political opinion in the country. This is what I set out to secure: but though 5 seats out of 14 were offered to the

Muslim League, though assurances were given that the scheme of constitution-making would be worked in accordance with the procedure laid down, and though the new Interim Government is to operate under the existing constitution, it has not been possible at present to secure a coalition. No one could be sorrier about the failure than I am. No one could be more sure that it is a coalition Government in which both the main parties are represented that is needed at this moment in the interests of all parties and communities in India. This is a view which I know that the President of the Congress, Pandit Jawaharlal Nehru, and his colleagues hold as strongly as I do. His efforts like mine will still be directed to persuading the League to join the Government.

Let me state clearly the offer which has been made and is still open to the Muslim League. They can propose to me five names for places in a Government of 14, of which 6 will be nominees of Congress and three will be representatives of the Minorities. Provided these names are acceptable to me and approved by His Majesty, they will be included in the Government, which will at once be reformed. The Muslim League need have no fear of being out-voted on any essential issue ; a Coalition Government can only exist and function on the condition that both main parties to it are satisfied. I will see that the most important portfolios are equitably shared. I sincerely trust that the League will reconsider their policy and decide to participate in the Government.

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In spite of all immediate appearances I believe there is yet a chance of agreement between the two principal parties. I am quite sure that there is a very large body of opinion in both parties and of non-party men who would welcome such an agreement, and I hope they will all work for it. I would appeal also to the Press to use its very great influence on the side of moderation and compromise. Remember, the Interim Government can be reformed tomorrow if the League decide to come in. Meanwhile it will administer in the interests of the country as a whole and not of any one party or creed.

It is desirable also that the work of the Constituent Assembly should begin as early as possible. I can assure the Muslim League that the procedure laid down in the statement of May 16th regarding the framing of Provincial and Group Constitutions will be faithfully adhered to ; that there can be no question of any change in the fundamental principles proposed for the Constituent Assembly in paragraph 15 of the Cabinet Mission's statement of 16th May or of a decision on a main communal issue without a majority of both major communities ; and that the Congress are ready to agree that any dispute of interpretation may be referred to the Federal Court. I sincerely trust that the Muslim League will reconsider their decision not to

take part in a plan which promises to give them so wide a field in which to protect the interests and to decide the future of the Muslims of India.

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(III) NEHRU'S BROADCAST  
September 7, 1946

\* \* \*

There has been much heated argument about sections and groupings in the Constituent Assembly. We are perfectly prepared to, and have accepted, the position of sitting in sections which will consider the question of formation of groups. I should like to make it clear, on behalf of my colleagues and myself, that we do not look upon the Constituent Assembly as an arena for conflict or for the forcible imposition of one viewpoint over another. That would not be the way to build up a contented and united India. We seek agreed and integrated solutions with the largest measure of goodwill behind them.

We shall go to the Constituent Assembly with the fixed determination of finding a common basis for agreement on all controversial issues. And so in spite of all that has happened and the hard words that have been said, we have kept the path of co-operation open, and we invite even those who differ from us to enter the Constituent Assembly as equals and partners with us with no binding commitments. It may well be that when we meet and face common tasks our present difficulties will fade away.

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(IV) NOTES EXCHANGED BETWEEN JINNAH AND B. N. RAU  
September, 1946

(a) *B. N. Rau's Record of His Interview with Jinnah  
on September 18, 1946*

Mr. Jinnah raised the following points:

1. What will be the subjects for discussion at the preliminary meeting of the Constituent Assembly? The Cabinet Mission's statement mentions "the general order of business" among the subjects; but what exactly does the phrase include?
2. If there is to be a committee to draft rules of procedure, what will be its composition and how will such a committee be chosen?
3. What will be the composition of the Advisory Committee mentioned

in para 20 of the Cabinet Mission's statement and how will this committee be chosen ?

4. How will the chairman be elected? Would it be possible to have a "rotational chairman", e.g., a Hindu chairman for a certain period, then a Muslim chairman, and so on ?
5. Will the Sections frame their own "general order of business" and elect their own chairmen ?
6. In view of the confusion that has arisen about the "grouping clause", would it not be possible to set out its meaning in clear and unmistakable terms?
7. Is it open to the Union Constituent Assembly to modify in any way the group or provincial constitutions as settled by the Sections?
8. If the Union Constituent Assembly claims a particular matter as falling within the Union subjects and a Section claims it as falling outside those subjects, what is the machinery for deciding the dispute?
9. Is the opinion of the Federal Court on a reference under paragraph 19(vii) of the Cabinet Mission's statement binding on the Chairman of the Constituent Assembly?
10. In the event of any resolution passed, or decision taken by a majority in the Union Constituent Assembly, which varies the provisions of paragraph 15 of the Cabinet Mission's statement, who will decide the question whether it amounts to a variation or not?

Mr. Jinnah said that these were some of the points that had occurred to him and that there might be others. A list of these additional points would be sent in due course ; and he would like, to have all of them examined carefully. He would also like, he said, to have a copy of any draft rules of procedure which might have been framed.

Although he raised a good many points, he felt that if an interim government representing all parties could be formed, most of the difficulties could be left to them to resolve. I readily agreed that, in that event, the work of the Constituent Assembly would be greatly simplified.

*(b) B. N. Rau's Letter to Jinnah, September 22, 1946*

I send you herewith answers to the questions which you put to me at our recent discussions. Needless to say, they embody only my own personal views and cannot bind anyone else.

As regards rules of procedure, my office has prepared a tentative draft ; but it needs continuous revision in the light of new material and is not yet in a form which can be regarded as satisfactory. If you are content with this imperfect draft, I shall be glad to send you a copy. In any event, it is meant to be no more than a working basis for the committee on procedure ; and it will not be placed before the committee unless the committee themselves ask for it.

Here my function as Constitutional Adviser ends. But you were good enough to mention to me, in some detail, more pressing problems connected with the interim government and to say, at one stage, that you valued my opinion. I shall, therefore, take the liberty of saying a few words on the subject.

Let me begin on a personal note. Almost the whole of my official life in the districts of Bengal and Assam was spent in predominantly Muslim areas at a time when the communal problem was hardly known. Chandpur, which figured in the papers recently as the scene of loot and arson and communal frenzy, was my first sub-division in Bengal nearly 35 years ago; Sylhet, another recent storm-centre, was my last district in Assam. I have the pleasantest recollections of both places, where I spent nearly nine years of my early official life. My views on present-day politics are inevitably coloured by these memories of happier days and by the hope that some way may be found of bringing them back.

The problems which confront us today are problems which concern Hindus and Muslims alike. In foreign affairs—whether in Indonesia, or in South Africa, or in the Middle East, or on the North-West Frontier—there is no cleavage between Sri Nehru's views and those of the Muslim League. In the domestic sphere, our main problems are, first, putting an end to the fratricidal strife which is now going on in Bengal, Bombay and elsewhere and in which the principal sufferers are Muslims no less than Hindus; secondly, procuring adequate supplies of food to stave off famine which, again would affect both communities; and thirdly—and ultimately, perhaps, the most important of all—planning in all its vast ramifications, including large power and irrigation projects, for the purpose of raising the standard of living of "the common and forgotten man". In none of these matters is there likely to be any divergence of interest or policy between Hindu and Muslim; and between them they would provide a fruitful field for co-operation now and for at least a decade to come. My own view—for what it is worth—is that the League should come into the government to work as a united team with the Congress and the minorities for the accomplishment of these common tasks.

How team-work is to be secured is best settled by direct contact between the two organisations. To suggest this in the present atmosphere of suspicion and bitterness may seem a counsel of perfection; but I recall certain words of a great English statesman addressing his Unionist colleagues on the eve of the Irish settlement twenty-five years ago:

Now and again in the affairs of men, there comes a moment when courage is safer than prudence, when some great act of faith touching the hearts of men and stirring their emotions achieves a miracle that no art of statesmanship can compass. Such a moment may be passing before our eyes now as we meet.

To come back to the Constituent Assembly; a constitution is only a

means to an end ; when by working together as a team, the various parties realise that the ends are common, there will be little difficulty in agreeing upon the means.

*(c) B. N. Rau's Replies to Jinnah's Questions*

*Question 1—*

The subjects for discussion at the preliminary meeting, so far as they can be foreseen at present, will be—

- (1) the election of a chairman and a vice-chairman or vice-chairmen ;
- (2) the election of a committee to draft rules of procedure (such a committee was set up by the Philadelphia Convention) ;
- (3) the election of a 'Steering Committee' to prepare the resolutions to be brought before the Constituent Assembly (such a committee was set up by the Quebec Convention) ;
- (4) the election of a Finance and Establishment Committee ;
- (5) the appointment of an Advisory Committee on the rights of citizens, minorities and tribal and excluded areas under para 20 of the Cabinet Mission's statement of May 16, 1946 ;
- (6) the appointment of a 'Corresponding Committee' to negotiate with the Negotiating Committee of the Indian States ; and
- (7) discussion of such of the reports of the above committees as are ready. (The report of the Advisory Committee on the rights of citizens, etc. will not be ready for discussion during the preliminary session.)

The phrase 'general order of business' is indefinite, but will cover the subjects mentioned above. There may, of course, be other subjects which this phrase would include but which are not enumerated in the above list.

*Question 2—*

Whether there should be a committee on rules of procedure and, if so, what should be its composition and how its members should be chosen are all matters for the decision of the Constituent Assembly. At the Philadelphia Convention, which framed the Constitution of the U. S. A. there was a committee of three, consisting of a delegate from Virginia, a delegate from New York and a delegate from South Carolina. The committee was appointed on the 25th May, 1787, and its report was considered on the 28th May. At the Quebec Conference, there does not appear to have been any special committee on rules of procedure. Certain rules of procedure were proposed and accepted at a meeting of the conference itself on the first and second days of the session. At the Adelaide session of the Australian Convention also, there does not seem to have been any such special committee; the standing orders and the practice of the South Australian House



of Assembly were proposed for adoption at a meeting of the whole convention and accepted on the second day of the session. At the South African Convention also, there does not appear to have been any special committee for rules of procedure.

Whatever may be the composition of this or any other committee that may be appointed by the Constituent Assembly, there is no reason to think that minorities will not be given fair representation.

*Question 3—*

The Advisory Committee will have multifarious functions to discharge and will very probably have to split up into sub-committees one on the rights of citizens, one on the protection of minorities, one on the administration of excluded and partially excluded areas and one on tribal areas. The committee will, therefore, have to be a comparatively large one and may consist of about 40 members (including co-opted members), who need not all be members of the Constituent Assembly. They will, doubtless include (a) a certain number of Hindus from the provinces in British India where the Muslims are in a majority; (b) a certain number of Muslims from provinces in British India where the Hindus are in a majority; (c) a certain number of Sikhs from the Panjab and the N.W.F.P.; (d) a certain number of members of the scheduled castes; (e) a certain number of Indian Christians; (f) at least one Anglo-Indian; and (g) at least one Parsi. The committee will probably have to be given power to co-opt additional members, particularly for the tribal areas. It need hardly be repeated that the precise composition and mode of election of the committee will be matters for the Constituent Assembly to determine.

*Question 4—*

The mode of election of the chairman will have to be decided by the Constituent Assembly itself, with the provisional chairman presiding. If the Constituent Assembly so decides, there can be a rotational chairman. In the Constitutional Conventions of the U.S.A., Canada, Australia and South Africa, there was no rotational chairman: the same person was chairman throughout the convention. At international conferences, there has been a practice of making the office rotate, e.g., at the San Francisco Conference and, more recently, at the Peace Conference in Paris. Which plan is to be adopted for the chairmanship of the Constituent Assembly will be for the Assembly itself to decide.

*Question 5—*

The Sections will elect their own chairmen and, broadly speaking, it will be open to them to frame their own general order of business. But it is

possible that the Union Constituent Assembly may, by agreement between the major communities, prescribe certain rules of procedure not only for itself but also for the Sections. For example, the Muslims being in a minority in the Union Constituent Assembly and the non-Muslims being in a minority in sections B and C, it is conceivable that by agreement in the Union Constituent Assembly a particular mode of voting or a particular mode of electing the chairman may be prescribed, both for the Union and for the Sections. If this happens, the rules so prescribed will be binding on the Sections as well.

*Question 6—*

The confusion regarding the grouping clause has been removed by paragraph 3 of the Viceroy's letter to Maulana Azad dated June 15, 1946, and that position has now been accepted by the Congress and the acceptance has been emphasised by Shri Jawaharlal Nehru in his broadcast of September 7, 1946. Any further explanation might start a fresh dispute as to the meaning of the explanation.

*Question 7—*

Broadly speaking, the answer is in the negative, provided the group and provincial constitutions confine themselves to their legitimate spheres.

*Question 8—*

The dispute mentioned in this question relates to the interpretation of that part of paragraph 15 of the Cabinet Mission's statement of May 16, 1946, which defines the Union subjects. It will be one of the duties of the Constituent Assembly, when framing the rules of procedure, to provide machinery for the decision of disputes regarding the interpretation of any part of this document. Several alternatives are possible; these have been mentioned in Part VII of the paper on *Points of Procedure*.

*Question 9—*

The opinion of the Federal Court has not, in express terms, been made binding on the chairman of the Constituent Assembly. In practice, however, the chairman will find it impossible to depart from the court's advice, just as, in practice, the Governor-General does not depart from the court's advisory opinions given under section 213 of the Government of India Act, 1935.

*Question 10—*

The same machinery that has been suggested in the answer to question 8 above may be utilised for deciding disputes of the kind mentioned in the

present question also. If the alleged conflict (with paragraph 15 of the Cabinet Mission's statement) is discovered after the resolution has been passed or the decision has been taken, the matter will have to be brought back before the Constituent Assembly for reconsideration. The rules of procedure will have to provide for such a contingency. From this point of view, the suggestion made in Part I of the paper on *Points of Procedure*, namely, that the constitution should be framed in two or more stages with a sufficient interval for criticism of the first draft, acquires additional importance.

(V) VICEROY'S LETTER TO JINNAH

November 5, 1946

Before I went on my visit to Bengal and Bihar, I spoke to you about summoning your Council with a view to their accepting the statement of May 16. I hope you will arrange to do this at an early date. I am doubtful myself whether there is any use in holding further discussions, but if you are convinced that some assurance is necessary would you please let me know what exactly it is? I suggest that it might be a good thing for you to have another talk with Sir B. N. Rau who would, I am sure, be glad to call on you.

(VI) JINNAH'S LETTER TO THE VICEROY

November 17, 1946

I am in receipt of your letter of the 5th of November, 1946, and I thank you for it. Owing to the very grave situation created in Bihar it was not possible for me to consult such of my colleagues as would have been available in Delhi, or my Committee of Action and, in order not to delay my reply, I have consulted some and beg to inform you that the Congress have not accepted the Statement of May 16 from the very beginning. To mention only a few official documents, there is the letter of the President of the Congress dated June 25, the Congress Working Committee's resolution of June 26 and various pronouncements of the foremost Congress leaders; and thereafter the Wardha resolution of the Congress Working Committee dated August 10. This clearly shows that the Congress never had, nor have they even now, accepted the Statement of May 16.

Even recently, in a letter to Mr. Gopinath Bardoloi, Prime Minister of Assam, published on September 13, 1946 (after the Assam Legislative Assembly had given a mandate to their representatives to the Constituent Assembly in the clearest terms to defy the fundamentals of the Statement of May 16), Pandit Jawaharlal Nehru says:

I fully appreciate the feeling in Assam in regard to the sections or grouping and I think that our position will safe-guard your sentiment completely.

Having accepted the document of May 16 we have inevitably to accept going into the sections, but the question is as to how we shall function in these sections. You are right in saying that I did not go into this matter in my broadcast, because I did not wish to raise controversial issues there. But our position is clear that provincial autonomy must be maintained and a province must decide both about grouping and its own constitution.

It is true that we have accepted the Federal Court's decision in regard to the interpretation and we must abide by that decision of ours. But in no event are we going to agree to a province like Assam being forced against its will to do anything.

The Constituent Assembly has now been postponed to December and we do not know what developments might take place by that time. Whatever they might be, if Assam is strong enough nothing can happen to Assam that it does not like.

Next, Mr. Gandhi, only as recently as October 23, 1946, in one of his pronouncements, said :

The Constituent Assembly is based on the State Paper. That Paper has put in cold storage the idea of Pakistan. It has recommended the device of 'grouping' which the Congress interprets in one way, the League in another, and the Cabinet Mission in a third way. No law-giver can give an authoritative interpretation of his own law. If, then, there is a dispute as to its interpretation, a duly constituted court of law must decide it.

In the first place there is no provision in the Statement of May 16 for any court to decide what is the true interpretation of the document. Besides, the basic and fundamental principle underlying that document is not, and cannot be made, a justiciable issue. The proposals embodied in the statement of May 16 are recommendations of the Cabinet Delegation and yourself, which can only be carried out when both the major parties are agreed, in the clearest manner and unquestionably, upon the fundamentals.

I quite appreciate when you say that there is no use in holding further discussion and you informed me that there was no chance of the Congress budging from the position they had taken up. In these circumstances, I hope you will appreciate that it will be futile for me to summon the Council of the All-India Muslim League.

You ask me to let you know, what exactly it is in the way of assurances that will be necessary. The question is not as you put it that, if some assurances are necessary, I should let you know exactly what they are. The real question is to get the Congress first to agree to the fundamentals in the clearest language and then devise ways and means by which the proposals can be implemented and enforced by His Majesty's Government if the Congress break their word.

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In this highly surcharged and explosive atmosphere, even to think of the proposed Constituent Assembly or any talk about it when we are faced

with two hostile camps, with the result that killing, murder and destruction of property are going on apace, is neither advisable nor possible. It will only exacerbate the present situation.

I most earnestly urge upon you to concentrate upon the measures to be adopted and carried out first to protect life and property without delay. This is your sacred duty and trust and I hope you will immediately impress upon His Majesty's Government to take up this immediate task. In my opinion, therefore, you should announce immediately the postponement of the Constituent Assembly *sine die* and let us all forthwith concentrate every ounce of our energy upon restoring peace and order first.

(VII) JINNAH'S STATEMENT FINALLY DISSOCIATING THE LEAGUE  
FROM THE CONSTITUENT ASSEMBLY

November 21, 1946

I deeply regret that the Viceroy and His Majesty's Government have decided to summon the Constituent Assembly on December 9. In my opinion, it is one more blunder of a very grave and serious character.

It is quite obvious that the Viceroy is blind to the present serious situation and the realities facing him and is entirely playing into the hands of the Congress and is appeasing them in complete disregard of the Muslim League and other organisations and elements in the national life of the country.

In these circumstances it is obvious that no representative of the Muslim League will participate in the Constituent Assembly and the Bombay resolution of the Muslim League Council passed on July 29 stands. By forcing this meeting of the Constituent Assembly the matter has been further exasperated and a situation has been created which will lead to serious consequences.

I want to make it clear that no representative of the Muslim League should attend the Constituent Assembly summoned to meet on December 9, 1946.

## PREPARATIONS FOR THE CONSTITUENT ASSEMBLY AT THE CONGRESS PARTY LEVEL July-November 1946

*[While the elections to the Constituent Assembly were still in progress, on July 8, 1946, the Congress Working Committee appointed an Experts Committee for the purpose of preparing material for the Constituent Assembly. The Experts Committee consisted of: Jawaharlal Nehru (Chairman), Asaf Ali, K. M. Munshi, N. Gopalaswami Ayyangar, K. T. Shah, D. R. Gadgil, Humayun Kabir and K. Santhanam. The committee had two sittings, the first at New Delhi from July 20 to 22 and the second at Bombay from August 15 to 17. Apart from a number of notes prepared by its members the committee discussed the procedure to be adopted by the Constituent Assembly, the question of the appointment of various committees, and the draft of a resolution on the objectives of the constitution to be moved during the first session of the Assembly. The basic principles embodied in the resolution were reiterated in a resolution adopted by the Congress Working Committee on November 20—the day the Constituent Assembly was formally summoned [see Document No. 68(v)]. The next day the Working Committee resolution was approved at the open session of the Indian National Congress at Meerut. The texts of the proceedings of the Congress Experts Committee, the notes considered by the committee and the Congress resolution of November 20 are reproduced below.]*

### (I) PROCEEDINGS OF THE EXPERTS COMMITTEE July 20, 1946

THE FIRST MEETING of the Experts Committee appointed by the Working Committee of the Indian National Congress was held at 19, Windsor Place, New Delhi on 20-7-1946 at 2 P.M.

*Present :* Shri Jawaharlal Nehru (Chairman), Shri K. M. Munshi, Sir Gopalaswami Ayyangar, Shri K. T. Shah, Shri D. R. Gadgil, Shri K. Santhanam, Shri M. Asaf Ali. Shri Krishna Menon was present by invitation of the Chairman.

On the Chairman's proposal it was resolved that Shri Krishna Kripalani be co-opted as member and Convener of the Experts Committee.

Two memoranda\* were submitted by Shri K. M. Munshi and Shri K. Santhanam as basis for discussion by the Committee. Preliminary discussion centred round the scope and powers of the Constituent Assembly. The committee agreed with the Chairman's opinion that though the Constituent Assembly will come into being in accordance with the procedure laid down in the Statement of the Cabinet Mission and the Viceroy dated May 16, 1946, once it has come into being it will be a sovereign body and shall act as such except in so far as the members composing it are morally committed to their acceptance of the framework laid down by the Cabinet Mission's Statement of May 16.

The committee then went on to discuss the procedure which might be adopted by the Constituent Assembly at its first sitting. The Assembly will begin by proceeding to elect a temporary or acting Chairman (preferably by agreement of the two major parties) from amongst its members. After the election of the temporary Chairman, a resolution will have to be moved, prescribing the procedure for the election of a permanent Chairman. The committee was of the opinion that the voting for the election of the Chairman should be by open ballot.

The Chairman having been elected, the Assembly will proceed to elect one or more Vice-Chairmen. Shri Krishna Menon suggested a panel of five Vice-Chairmen of whom at least three must sit together in the absence of the Chairman. On any ruling their decision must be unanimous. In case of disagreement the ruling must be referred to the decision of the Chairman. The suggestion did not meet with the approval of the committee. The committee was of the opinion that a panel of five Vice-Chairmen should be elected who should take the chair by rotation in the absence of the Chairman. The committee approved of Shri Asaf Ali's suggestion that a Vice-Chairman may on his own initiative reserve a ruling for the decision of the Chairman. He must do so if a certain number of members (preferably twenty-five) request him to do so. The Chairman will also consider, and if necessary revise, the ruling of a Vice-Chairman on appeal moved by at least ten members.

The Assembly will then proceed to the election of the following :—

- (1) A Steering Committee of fifteen, with a quorum of five members,
- (2) A Secretary-General,
- (3) A Staff and Finance Committee, consisting of the Chairman, the five Vice-Chairmen, the Secretary-General and nine other members,
- (4) A Procedure Committee.

Shri Jawaharlal Nehru suggested, and the committee agreed that in defining the powers of the Chairman, the Procedure Committee might specifically lay down that he should have no powers to dissolve the Constituent Assembly. The right of dissolution can rest only with the Assembly itself.

After electing the above committees, the Assembly will proceed to appoint a Fundamental Rights Committee, consisting of about forty-five members all of whom need not be members of the Assembly. The committee will consist of three sections dealing with Fundamental Rights, protection of Minorities and the special interests of Tribal and Excluded Areas respectively. The committee will be required to present its report in not more than two months.

The Assembly will then address itself to the task of defining the objectives for which it has met in the form of an appropriate resolution.

The committee was also of the opinion that the Assembly should, before dividing itself into groups for the purposes of framing the provincial constitutions, indicate the scope covered by the subjects reserved for the Union.

Shri K. M. Munshi, Shri K. Santhanam and Sir Gopalaswami Ayyangar were requested by the committee to draft the necessary resolutions embodying the above suggestions of the Experts Committee for the consideration of the Congress Working Committee.

The committee adjourned at 7 P.M. to meet again at 9 A.M. the next day.

## (II) RECOMMENDATIONS OF THE EXPERTS COMMITTEE

July 20, 21 and 22, 1946

### *Election of Chairman.—*

1. *Temporary Chairman.*—A temporary Chairman for the opening meeting should be settled by agreement and, as soon as the Assembly meets, he should be proposed and seconded and accepted by acclamation.

2. *Permanent Chairman.*—The following resolution should be moved in relation to the election of the permanent Chairman as soon as the temporary Chairman takes his seat :

The Assembly hereby resolves that the Chairman be elected in the following manner :

- (a) Any member may be nominated as a candidate by being proposed by one of the members in writing and seconded by another member.
- (b) The Acting Chairman shall fix the time for receipt of nominations. If only one member is nominated he shall be declared elected and shall immediately proceed to occupy the chair.
- (c) If there is more than one nomination, the Acting Chairman shall fix the time of election. Each member shall have one vote and the voting shall be by poll. If there are only two candidates, the candidate securing the larger number of votes shall be declared elected. If there are more than two candidates, and one of them gets a majority of votes polled, he shall be declared elected. If there



is no such person, the candidate getting the least number of votes shall be eliminated and the voting shall take place among the remaining candidates. This process shall be repeated until one of the candidates gets a majority of the votes or only two candidates are left in which case the person getting the larger number of votes shall be declared elected. The Acting Chairman is authorised to take all steps necessary to carry this resolution into effect.

*Procedure Committee.—*

3. After the Chairman has been elected the following resolution should be moved :

This Assembly resolves to appoint a committee of 15 persons to report within 3 days on the following matters :—

- (a) Rules of Procedure of the Assembly, Sections and Committees;
- (b) Organisation of the work of the Assembly;
- (c) Procedure for the filling up of vacancies in the Assembly ;
- (d) Powers of the Chairman; and
- (e) Other incidental matters.

The Chairman is authorised to call for nominations and if more persons than 15 are nominated to arrange for the election of the committee by the principle of the single transferable vote.

*Advisory Committee on Fundamental Rights, Protection of Minorities and Administration of Tribal and Excluded Areas.—*

4. The Advisory Committee for fundamental rights, protection of minorities and administration of tribal and excluded areas is to consist of 45 persons, including members and non-members. It should be divided into three sections one section each to report on (1) fundamental rights, (2) protection of minorities and (3) administration of tribal and excluded areas. The whole committee will consider all the reports and present a consolidated report to the Assembly. The committee will be asked to complete its work in two months.

*Declaration of objectives.—*

5. The following resolution outlining the main objectives of the Constituent Assembly should be moved after the appointment of the Advisory Committee on Fundamental Rights:

*Declaration*

This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic, and to draw up for her future governance a constitution wherein

the territories that now comprise British India, the territories that now form the Indian States and such other territories and parts of India as are outside British India and the States and are willing to be constituted into the Independent Sovereign India, shall be a Union of them all; and the said territories, either with their present boundaries or with such others as may be determined by the Constituent

Assembly, and thereafter according to the law of the constitution, shall possess and retain the status of autonomous units, together with residuary powers, and exercise all functions and powers of government and administration, save and except those that are assigned to and vested in the Union, and save and except such powers and functions as are inherent in the Union by virtue of the sovereignty of the Union;

and wherein

all power and authority of the Sovereign Independent India, its constituent parts, and organs of government are derived from the people;

and wherein

shall be guaranteed to all the people of India by law and secured to them by declared social objectives and purposes, economic organisation and administrative machinery

(a) justice, social, economic and political,

(b) equality of status, of opportunity, and before the law,

(c) freedom of thought, belief, vocation, association and action subject to law and public morality;

and wherein

adequate safeguards shall be provided for minorities, backward areas and classes;

and whereby

shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea and air according to justice and the law of civilised nations;

and

this ancient land attain its rightful and honoured place in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind.

*Functions of the Union Legislature.—*

6. The following resolution relating to the subjects falling within the jurisdiction of the Union Legislature should be moved with a view to enable the delimitation of the functions of the provincial Governments;

Whereas

in paragraph 15(1) of the Cabinet Delegation's Statement of May 16th, the subjects assigned to the Union Centre are compendiously indicated under four broad categories, and it is necessary for the purpose of eliminating possibilities of overlapping and conflict between the provisions in the constitution relating to the Union and the Provinces that lists of matters covered by each of the four categories and matters incidental thereto should be drawn up before the framing of the provincial constitutions is taken up for consideration.

And whereas

it is necessary to indicate the matters which are inherent in the powers of the Union or are incidental to their implementation,

And whereas

it may by general agreement be considered necessary or desirable that certain subjects other than those referred to in the preceding paragraphs should be assigned to the Union.

This Assembly resolves that a committee consisting of fifteen (15) members be appointed for the purpose of preparing lists of subjects and matters referred to in the foregoing paragraphs, and that the committee do report to this Assembly within two weeks.

[NOTE.—Sri K. M. Munshi, Sri K. T. Shah and Sri D. R. Gadgil were requested to draft rules of procedure and organisation of work of the Union Assembly.\* Sir Gopalaswami Ayyangar was requested to prepare a note on the relation of States with the Union.\* Sri K. Santhanam was requested to prepare a note on Fundamental Rights and the Protection of Minorities.]\*

### (III) PROCEEDINGS OF THE EXPERTS COMMITTEE MEETINGS

August 15, 16 and 17, 1946

A meeting of the Experts Committee was held at Bombay at the residence of Sardar Vallabhbhai Patel (68, Marine Drive) on August 15 at 2.30 P.M. Members present were Pandit Jawaharlal Nehru (Chairman), Sri K. M. Munshi, Sri K. Santhanam, Dr. D. R. Gadgil, Prof. K. T. Shah, Prof. Humayun Kabir and Sri K. R. Kripalani (Convener). Sardar Vallabhbhai Patel, Dr. Appadorai, Mridula Sarabhai and Sri Raja Hutheesingh were present by invitation.

The following papers were placed before the committee.

1. Drafts\* prepared by Sri K. Santhanam and Sri K. R. Kripalani on (a) Union Constitution, (b) Fundamental Rights and Safeguards, (c) Constitution of a State within the Union.
2. Drafts\* prepared by Sri K. M. Munshi on (a) Rules of Procedure for the Constituent Assembly, (b) Fundamental Rights.
3. A note by Dr. Gadgil raising certain questions regarding the formation of Groups, etc.

Sri K. M. Munshi's draft of Rules of Procedure was taken up for discussion. The committee sat till 6 P.M. and met again at 9 A.M. the following morning. All those who were present the previous day were present except Sardar Vallabhbhai Patel. Sri Krishna Menon was present by invitation. The discussion on the Draft Rules of Procedure was continued. The committee also examined the scope of the four subjects allotted to the Union Government under the Cabinet Mission's plan. There

\*Not reproduced.

was also some discussion on the draft of Fundamental Rights. The questions raised by Dr. Gadgil in the note submitted by him were also considered and answered by the Chairman. The meeting continued till 6 P.M. with a two-hour interval for lunch at 12.30 P.M.

The committee met again at 9.30 A.M. the following morning at the residence of Sri K. M. Munshi. The following were present : Sri K. M. Munshi, Prof. K. T. Shah, Dr. D. R. Gadgil, Sri K. Santhanam, Sri Krishna Menon, Dr. Appadorai and Sri K. R. Kripalani. The remaining items of the Draft Rules of Procedure were considered. The committee requested Sri K. M. Munshi to incorporate in the draft the changes recommended by the committee and circulate the revised version among the members. It was also decided that Sri K. M. Munshi, Dr. Gadgil and Dr. Appadorai would each prepare a note on the scope of the Union subjects, and that Sri K. Santhanam, Dr. Appadorai and Sri K. R. Kripalani would together revise the draft of Fundamental Rights.\*

The meeting concluded at 11.30 A.M.

#### (IV) NOTES SUBMITTED TO THE EXPERTS COMMITTEE BY ITS MEMBERS

##### (a) *A Note on the Formation of Groups etc., by D. R. Gadgil* August 15, 1946

It would be necessary to clear up certain issues before it is possible for the Constituent Assembly to function usefully ;

1. The first relates to the arrangements for the formation of Groups and Group constitutions. The Muslim League position is evidently that the proposals of the Cabinet Delegation provide for the immediate formation of sections in which the question of forming a Group and the details of its constitution, if formed, will be decided by a majority of the entire section. A province would have the choice of later opting out of the Group. The speeches of the members of the Delegation in Parliament lend support to this interpretation and it is with this understanding that, it is generally agreed, the Muslims accepted the proposals as a whole. If this position is not acceptable to the Congress and if that organisation has an alternative interpretation it is best to state this plainly. The Congress might desire that a province should have an opportunity, initially, of declaring its opinion regarding the formation of the Group. It will have to be made clear, in this case, who it is proposed e.g., the Legislative Assembly of the Province, its representatives in the Constituent Assembly etc., should exercise this choice. Next will come the question of the composition of the Groups. Must Groups, if formed, comprise only the particular pro-

\*Not reproduced.

vinces mentioned in the Delegation proposals and also all of them? Will the abstention of any one province vitiate the whole scheme? And if there is general choice given to provinces to form groups how is this to be exercised either before or after the functioning of the Constituent Assembly? It is no use adopting in this matter an attitude which might be likened to that of a speculative litigant trying his luck at law. No party if it has strong convictions on such a matter can or should be prepared to run the hazard of judicial interpretation.

2. The other important issue on which a deadlock is almost sure to be reached in the Constituent Assembly, if it meets and functions, is the division of power in the Central Government. The composition of the legislature, the executive and the services, especially the Defence forces, will all be involved in this question. The League is expected to take an extreme position demanding a legislature confined to the representatives only of Groups or Provinces and proposing an arrangement relating to this representation which would bring about something like equality of votes between the Muslim majority provinces and the non-Muslim majority provinces. It might also suggest some amendment of the ordinary Cabinet type of executive so that a definite proportion of Muslims is always maintained in the Cabinet. It would also press for recruitment to Central services, especially Defence forces, on the basis of some kind of regional or communal proportions. The Constituent Assembly would not be in a position to resolve questions raised by such demands. Inevitably the leaders of the two parties must arrive at some agreement. The Indian situation differs radically from the situation in a country like France. Whatever the party wrangles a referendum is available there to settle the issues finally. With us there is yet no way out of a deadlock created by disagreement between the two parties.

3. The Congress will also have to reconsider seriously its position regarding the formation of Group governments. If it is not possible to form a Union Government which is very much stronger than that envisaged in the Delegation proposals the formation of Groups seems inescapable. In the absence of a Group government all powers will vest in the provinces and these will become the real units of all peacetime administration and planning. The working of food administration has been found difficult enough, because of provincial intransigence, even with a comparatively strong central government having special wartime powers. With complete provincial autonomy it will be difficult for anybody to prevent gross inequalities in food distribution and even periodic breakdowns. Long-term economic planning will, of course, be completely out of account. The province of Bombay will become possessed of almost a textile monopoly and Bihar that of production of iron and coal. In the absence of coercive powers vested in some superior government little economic progress may be expected and whatever the progress it will be very unevenly spread. The

slow advance of what has been termed "new federalism" in the U. S. A. and the failure of the Canadian and Australian attempts at increasing the Central sphere of power for such purposes as post-war planning, by agreement with the provinces must be taken to heart in this connection. The only alternative to a superior governmental organization might be an extra-constitutional body like the Communist Party in the U. S. S. R. An extremely well-knit organization and a determined and ruthless leadership are necessary to work such an extra-constitutional device. Both these are obviously absent in India. It is, however, impossible to see how the decision of provinces in Group A not to form Group government could influence the view of the Muslims relating to the strength of the Centre.

4. Lastly, the Congress must also make up its mind how far it is prepared to go in order to conciliate Muslims and to achieve a Union and what it proposes to do in the event of a continuing deadlock. It might be said that it is premature to raise some of these issues and that they could be met when they actually arise. However, none of them are far distant and there is grave danger in not formulating positions clearly, well in advance. In spite of its protests about a strong centre the Congress now stands completely committed to a scheme which provides for a centre with the weakest government in the world; and in spite of the talk about the breaking of the group idea its acceptance seems now to depend only on judicial interpretation. Similar happenings in relation to the Union executive, legislature etc., will make impossible any future progress in the country along constitutional lines.

Also, the possibility of a deadlock must be seriously contemplated. A Union obtained by award must always remain unsatisfactory; and keeping any large section of people within the Union by coercion, with or without external aid, is out of account. Therefore, Congress must formulate its views clearly in relation to the plea of self-determination and announce them openly. Bare denial of the plea is difficult and insistence on the Union merely because the non-Muslims in India or the British desire it, is illogical. But the full implications of the right of self-determination and of its necessary and equal application to all could be clearly brought out and forcibly stated and a choice offered under specific conditions.

Large assemblies, like the Constituent Assembly, do not lend themselves to arriving at a settlement on highly controversial issues between equally matched opponents. Therefore, as in the case of the States, there is obvious need of negotiating committees of the Congress and the League working out their differences and agreeing upon the essentials. The Constituent Assembly could function usefully only after this has been done. As a preliminary to setting up a negotiating committee the Congress must formulate for itself the position in respect of all the main problems and must also determine where and on what principles it will take its ultimate stand from which there will be no receding.

(b) *A Note on a Rough Programme for the Constituent Assembly*  
by Gopalaswami Ayyangar  
November 30, 1946

The business of the Constituent Assembly is that of framing a constitution for all India. The machinery—executive, judicial and legislative—and the methods of its organisation and proper functioning in relation to the exercise of the totality of sovereign powers comprised in governance have to be provided for in the constitution. Under a federal system, which is what is contemplated, these sovereign powers have to be divided between the Union Centre and the State Units. Under the scheme of the Cabinet Mission, however, it is possible that a third tier might be added to the usual federal structure in the shape of groups—an intermediate authority between the Centre and the Units—and if this third tier is set up the sovereign powers in respect of the subjects which would otherwise have been entirely allocated to the Units would have to be divided between the Units and the Groups.

The Cabinet Mission's scheme leaves it to the Constituent Assembly to determine the order in which the various stages of this business of constitution-making may be completed. It is desirable that as early as possible in the first session of the Assembly the organisation of its work and the order in which it should take up and dispose of the business entrusted to it should be settled.

It will probably be necessary to contemplate three sessions of the Assembly separated by suitable intervals, the sessions being completed, if possible, about the end of 1947.

The nature of the business and the order in which it might be transacted are indicated below as a basis for discussion :—

SESSION I

December 46 to January 47

*Full Assembly*

*First sitting.*—(1) Temporary Chairman—Oldest member of the Assembly to be elected unanimously, on a previously agreed understanding, by motion moved by the Leader of the Interim Government.

(2) Presentation of credentials by members and their signing the Assembly Register.

(3) Resolution, for the election of the permanent Chairman, adopting, with necessary verbal modifications, the procedure for the election of the President of the Indian Legislative Assembly. (A draft of the rules as modified attached).

*Second sitting.*—(1) Election of the Chairman. On the declaration by the temporary Chairman of his election, the permanent Chairman will be inducted into the Chair.

(2) Speeches felicitating the Chairman and his reply.

(3) Election of the Secretary-General of the Assembly.

[NOTE : It is important that the Secretary-General should be chosen at this early sitting. He is to be the head of the secretariat of the Assembly and its Chairman and he must function from the very beginning in order that business might go through under responsible guidance. Other members of the secretariat may be finally fixed up after proposals are received from the staff and finance committee to be appointed, pending which the existing secretariat drawn from the permanent services of the Government of India might continue.]

*Business for subsequent sittings.*—(1) Motions for the setting up of the following committees, fixing their constitution and functions and determining the procedure for the election of their members—(a) Steering Committee; (b) Staff and Finance Committee; (c) House Committee; (d) A committee for framing rules of procedure for the Assembly.

(2) General speeches as to the work before the Constituent Assembly.

(3) Motion for the appointment of a committee to negotiate with the States Negotiating Committee. (*Vide* suggestions in my note on the subject.)

(4) Consideration of the draft of the Rules of Procedure framed by the Procedure Committee.

(5) Resolution setting up a committee for determining the content of the subjects to be assigned to the Centre—this committee to include two or three representatives of States Governments and States people.

(6) Other resolutions, such as those indicated in my notes on 'making and amendment of the new constitution' and 'Double Majority hurdle' and others.

(7) Motion for committee on fundamental rights, minorities and tribal areas (to include a few representatives of States).

(8) Consideration of report of committee on Union subjects.

#### *Sectional Meetings*

Each section to formulate its views as to (a) whether a group constitution is necessary and if so with what provincial subjects the group should deal, and (b) main features of the constitution for each province in the section.

These views to be communicated to the Speaker of each Provincial Assembly with a request that the latter's opinion thereon may be communicated before the commencement of the second session.

#### SESSION II

April to June 1947

The election of the 93 representatives of the Indian States should be completed before the commencement of the second session, where they should take their seats.

*Business—Full Assembly.*—(1) Consideration of report of committee on fundamental rights, minorities and tribal areas.



(2) Settling main features of the Union constitution.

[NOTE : The resolution on this item to be communicated to provinces and States and their views invited well before the commencement of the third session.]

(3) Appointment of a committee to draft the Union constitution. Thereafter meetings of Sections.

(4) Each provincial section and the States section to make arrangements to draft the texts of the constitutions of provinces and States and also of groups, if any. These texts to be sent to the Chairman of the Constituent Assembly before the second session closes.

SESSION III

October to December 1947

Business—Full Assembly.—Settling the Union constitution.

Sections.—Settling the provincial and State constitutions and the group constitutions, if any.

Full Assembly.—Indo-British Treaty (if necessary at all); implementation of taking over of full power and transitory arrangements.

APPENDIX

RULES FOR THE ELECTION OF CHAIRMAN

(1) The temporary Chairman shall fix a date for the holding of the election of the permanent Chairman and notify such date to every member who has presented his credentials and signed the Register of the Assembly.

(2) At any time before noon on the day so fixed any member may nominate another member for election by delivering to the temporary Chairman a nomination paper signed by himself as proposer and by a third member as seconder and stating—

(a) the name of the member nominated, and

(b) that the proposer has ascertained that such member (will be) willing to serve as Chairman, if elected.

(3) At any time after 3 P.M. on the date fixed for election the temporary Chairman shall read out to the Assembly the names of the members who have been duly nominated together with those of their proposers and seconders and if only one member has been so nominated shall declare that member to be elected. If more than one member has been so nominated the Assembly shall proceed to elect the Chairman by ballot.

(4) For the purpose of rule (3) a member shall not be deemed to have been duly nominated or be entitled to vote if he and his proposer and seconder have not before the reading of the names by the temporary Chairman presented his credentials and signed the Assembly Register as members of the Assembly.

(5) Where more than two candidates have been nominated and at the first ballot no candidate obtains more votes than the aggregate votes obtained by the other candidates, the candidate who has obtained the smallest number of votes shall be excluded from the election, and balloting shall proceed, the candidate obtaining the smallest number of votes at each ballot being excluded from the election, until one candidate obtains more votes than the remaining candidate or than the aggregate votes of the remaining candidates, as the case may be.

(6) Where at any ballot any of three or more candidates obtain an equal number of votes and one of them has to be excluded from the election under rule (5) the

determination as between the candidates whose votes are equal of the candidate who is to be excluded shall be by drawing of lots.

(c) *Certain Observations on the Making and Amendment of the New Constitution by Gapalaswami Ayyangar*  
1946\*

It is obvious that the new constitution for all India will have to take the shape of a number of separate laws. The Cabinet Delegation contemplates (1) a law of the constitution for the Union [paras 15(6), 19(vi) and 20]; (2) a law of the constitution for each group of provinces, if any [paras 15(6), 19(v) and 20]; (3) a law of the constitution for each province [paras 19(v) and 20]. To these three categories will have to be added two more; (4) a law of the constitution for each Indian State; (5) a law of the constitution for each group, if any, of Indian States.

2. The law of the constitution for each province has to be *settled* by the section in which it has been placed—para 19(v).

There is no provision in the Cabinet Delegation's Statement indicating definitely who should settle the law of the constitution for each group, if such a constitution is decided on. Para 19(v) only says that the section shall decide whether any group constitution shall be set up and if so with what provincial subjects the group should deal. It has to be presumed that the group constitution, if the setting up of it is decided on by a section, should be *settled* by that section.

The law of the constitution for the Union has to be *settled* by the entire Constituent Assembly, including the representatives of all provinces and the Indian States, para 19(vi).

The Cabinet Delegation's Statement makes no mention of the law of the constitution for each Indian State. There are about 562 such States. Some of them have written constitutions granted to them by their Rulers. Others have no written constitution of any kind.

3. The exact import of the word 'settle' in the Statement is not very clear. There is no mention of any subsequent procedure for the enactment as law of what is settled. In the statement issued by the Delegation on the 25th of May, it is stated that, after the conclusion of the Constituent Assembly's labours, His Majesty's Government will recommend to Parliament such action as may be necessary for the cession of sovereignty to the Indian people. But the action contemplated in this case will only be for the purpose of enabling the agents of His Majesty's Government now in possession of power in this country to part with it to authorities which will be brought into existence by the new constitution. It is unlikely that in her present mood India will agree to the Parliament of the United Kingdom

\*Exact date not known.

enacting the law of the future Indian constitution even if it should mean nothing more than a formal acceptance and a reproduction without any modifications of the constitution as settled by the Constituent Assembly. It has not been suggested either that, subsequent to the settlement in the Constituent Assembly or in sections of it, the law of the constitution should receive approval from another specially convened Convention or from each of the provincial legislatures which have elected the representatives to the Constituent Assembly or from the Rulers, legislatures or specially convened Conventions of Indian States. It has to be presumed that the intention is that the settlement of the constitution in each case is the final step in the enactment of it into law.

4. This would mean that, at the stage when representatives of the sections and of Indian States assemble for settling the Union constitution, it is not contemplated that they could make any modifications for the purpose of correcting errors in the provincial or group constitutions or of removing conflicts among them and co-ordinating them with each other and with the Union constitution. This is a difficulty which deserves to be removed by a resolution of the Constituent Assembly as a whole during the preliminary sessions. The necessity for removing this difficulty reinforces the argument in favour of reversing the order in which the different constitutions are settled. If the Union constitution is first settled, the group constitution next and the provincial constitution last and if it is stipulated that the group constitution, if any, should not be inconsistent either with the group or the Union constitution, the chances of conflict between them will get eliminated.

5. The question of settling the constitutions for Indian States raises other difficulties which will have to be separately considered. It is sufficient at this point to insist on the framing of such constitutions in the case of every State.

6. The previous paragraph relates to the constituent power in relation to the making of constitutions for both the general government (Centre) and the regional governments (Units). It is necessary to examine also the question of the exercise of the constituent power in relation to the amendment of the constitution.

7. Three alternatives would seem to deserve consideration in this connection:

- (a) The procedure for amending the Union, Group and Provincial constitutions might be embodied in the law of the constitution for the Union; this would detract radically from federalism and from precedent; or
- (b) The procedure for amending the constitution of each Group and of the Provinces included in it might be embodied in the law of the constitution for the Group; this also will be inconsistent with federalism; or

(c) The procedure for amending the Union constitution might be embodied in the law of the constitution for the Union, that for amending the group constitution might be embodied in the law of the constitution for the group and for amending the provincial constitution might be embodied in the law of the constitution for the province concerned. This would be correct in principle, as residuary powers are vested in the province.

8. Analogous provision for amendment will have to be embodied in the law of the constitution for each Indian State and for each group, if any, of Indian States.

9. There is further the provision in paragraph 15(6) of the Statement, namely, that the constitution of the Union and of the Groups should contain a provision whereby the majority in the legislative assembly of any province might call for an alteration of the constitution, presumably the constitution of the Union, the Group or the province, after an initial period of 10 years and at 10 yearly intervals thereafter. This, however, does not indicate the procedure to be followed for the alteration, if any, on such a requisition or for alteration necessitated in other circumstances.

10. Lastly there is paragraph 19(viii) of the Statement under which a province can opt itself out of a Group on a decision to that effect taken by its legislature after the first general election under the new constitutional arrangements. Such opting out of a group will necessitate alterations not only in the constitutions of the Group and the province concerned, but very probably in the constitution for the Union as well. The procedure for carrying out amendments of the different constitutions in those circumstances has also to be provided for.

11. There is the further question whether, prior to the final settling of the Union, Group or Provincial constitutions, and in accordance with the precedent in other countries, an opportunity should not be afforded to the provincial legislatures to state their views on the draft proposals.

12. We have got to decide clearly in advance, what policy we shall adopt in respect of these various problems.

13. Having done so, we must commit the Constituent Assembly by clearly worded resolutions.

*(d) A Note on the double majority hurdle by  
Gopalaswami Ayyangar  
1946\**

In the Cabinet Delegation's scheme of May 16th this hurdle is mentioned in two places, namely, paragraph 15(2) and paragraph 19(vii). The double majority is described as a majority of the representatives present

\*Exact date not known.

and voting of each of the two major communities. Paragraph 15(2) speaks also of a majority of all the members present and voting but this point is not mentioned in paragraph 19(vii). This discrepancy is not of any practical importance.

This double communal majority is required under para 15(2) in respect of the decision of any question raising a major communal issue in the legislature of the Union. In paragraph 19(vii) it is required in the case of resolutions in the Union Constituent Assembly varying the provisions of paragraph 15 or raising any major communal issue.

It is remarkable that the stipulation for separate communal majorities is not amongst the demands of Mr. Jinnah in his memorandum dated 12th May, 1946. I say remarkable, because the suggestion for the double communal majority was made in point (H) of para 8 of the "Suggested points for agreement" contained in a memorandum of the Delegation dated 8th May sent to both the League and the Congress and had been accepted by the President of the Congress in his letter dated 9th May 1946.

In the case of decisions to be taken by the Union of the future, Mr. Jinnah in his memorandum dated 12th May, asked for only a majority of three-fourths; presumably this majority is the majority of the total strength including all communities. He no doubt wanted that this majority should be applied to decisions not only in the legislative sphere but in the executive and administrative spheres also; an extravagance which has been, as was bound in reason to be, laughed out.

As regards major points in the Union constitution affecting communal issues which arise in the constitution-making body, Mr. Jinnah demanded only a majority of the members of the constitution-making body of the Hindu provinces and a majority of the members of the constitution-making body of the Pakistan Group present and voting. He makes no reference here to communal majorities.

The Congress did not agree to any restriction either as to the kind or as to the quantum of the majority necessary for the decision of any communal or other issue in the legislature of the Union.

It is significant, however, that the Congress should have offered to concede this double communal majority—in fact it went to the length of suggesting that there should be a simultaneous majority of the community or each of the communities affected—in regard to the decision of any major point in the all-India federal constitution which arises in the Constituent Assembly and which affects the communal issue.

It is unnecessary to fix definitely the responsibility for the erection of a most inconvenient hurdle of this description. But in making a gift of it to the Muslim League the Delegation took two further steps: (a) it extended the concession to the Union Legislature after it is established, and (b) it ignored the recommendation of the Congress for providing for arbitration in case a decision on a major communal issue in the Constituent

Assembly could not be arrived at for want of this double communal majority.

So far as the Constituent Assembly is concerned, the restriction is imposed only in respect of the Union Constituent Assembly by all three parties to the negotiations, viz. Mr. Jinnah, the Congress and the Cabinet Delegation. It must be held that this restriction cannot apply to major communal issues arising for decision in the three sections of this Assembly when they meet separately. No section can be treated as the Union Constituent Assembly.

Similarly, the restriction as regards the authorities established under the new constitution will apply, both according to Mr. Jinnah and according to the Cabinet Delegation, only in the case of the legislature of the Union. The scheme does not stipulate that it should be applicable to the legislatures either of the provinces or of the groups, if any, that may be established.

It is obvious that the double majority rule might produce a series of deadlocks in the Union Constituent Assembly and block all progress in constitution-making unless provision is made for resolving them, when they do occur. This provision should be by way of arbitration. A resolution may be moved and adopted early in the first session of the Constituent Assembly in the following terms :

When owing to the want of a majority of the members of each of the two major communities present and voting at any sitting of the Union Constituent Assembly, the Assembly is unable to give a decision on a question involving a variation of the provisions of para 15 of the Cabinet Mission's Statement or raising a major communal issue, the question shall be referred to a Board of Arbitration consisting of three persons nominated one each by the members present at the sitting of each of the two major communities and a third person chosen by agreement between the two so nominated. Provided that if the nominees of the communities are unable to agree upon the third person, such third person shall be chosen by the Chairman of the Assembly. Provided further that such third person shall not be a person belonging to either of the two major communities.

The decision of the Board shall be final.

#### (V) CONGRESS RESOLUTION ON THE OBJECTIVES OF THE CONSTITUTION

November 20, 1946

On the eve of the summoning of the Constituent Assembly to frame a constitution for India, this Congress declares that it stands for an independent sovereign republic wherein all powers and authority are derived from the people, and for a constitution wherein social objectives are laid

down to promote freedom, progress and equal opportunity for all the people of India, so that this ancient land attain its rightful and honoured place in the world and make its full contribution to the promotion of world peace and the progress and welfare of mankind, and directs all Congressmen to work to this end.

This Congress, having considered the various political developments resulting from the visit of the British Cabinet Delegation to India, the calling of the Constituent Assembly to determine the constitution of free India, and the formation of the Interim National Government, confirms and ratifies the decisions taken thereon from time to time by the Working Committee and the All-India Congress Committee.

THE LONDON CONFERENCE HELD TO RESOLVE THE  
CONGRESS-LEAGUE DIFFERENCES  
November 1946-January 1947

*[In an attempt to break the deadlock (see Document No. 63, Note) and bring about a settlement between the Congress and the Muslim League for co-operating in the task of the Constituent Assembly, the British Government invited the leaders of the two parties to a conference in London in the first week of December, 1946. Nehru at first declined the invitation but finally agreed to attend the Conference on an assurance from Attlee that there was no intention of abandoning either the decisions regarding the Constituent Assembly, which was to meet on December 9, or the plans put forward by the Cabinet Mission. Nehru, Jinnah, Liaquat Ali Khan, Baldev Singh together with the Viceroy reached London on December 2. The Conference in London, however, failed to find a solution. The discussion mainly centred round the interpretation of the grouping provisions of the Statement of May 16. On December 6, the British Government issued a statement giving its interpretation of the Cabinet Mission's Plan in regard to grouping of provinces and the functioning of Sections. The Constituent Assembly duly opened as scheduled on December 9 but without the League members participating.]*

*The Congress Working Committee criticised the British statement and subsequent amendments in Parliament as additions to and variation of the Cabinet Mission's statement of May 16 on which the whole scheme of the Assembly had been based. It held that the British Government's interpretation was inconsistent with the principle of provincial autonomy. The Working Committee of the Muslim League, on the other hand, passed a resolution emphasizing that the League's view of the interpretation of the statement of May 16 had been upheld by the British Government. The resolution stated that the Congress had destroyed all the fundamentals of the plan and every possibility of compromise on that basis. It called upon the British Government to declare that the plan had failed and to dissolve the Constituent Assembly. The papers connected with the London Conference, H. M. G.'s December statement and the Congress and League reactions thereto are reproduced below.]*



## (I) LETTER FROM NEHRU TO THE VICEROY

November 26, 1946

WITH REFERENCE TO our conversation today, in the course of which you conveyed His Majesty's Government's invitation to some of us to visit London this week, I have consulted my colleagues and we have given careful thought to the proposal. I need hardly say that we are grateful to His Majesty's Government, for their invitation, but we feel we cannot, at this stage, go to London. We would be agreeable to consultations with the representatives of the British Government in India.

It would appear that the proposal involves a reopening and a re-consideration of the various decisions arrived at since the visit of the British Cabinet Delegation to India. The Muslim League accepted places in the Government on the very clear understanding that they also accepted the long-term proposals contained in the Cabinet Mission's statement of May 16. Indeed they could not join the Government otherwise. But now the League has announced very definitely that they will not participate in the Constituent Assembly. We attach, as you are aware, great importance to the holding of the meeting of the Constituent Assembly on the date fixed, namely, December 9. The invitation to us to go to London appears to us to re-open the whole problem which was settled to a large extent by the Cabinet Mission's statement and the formation of the Interim Government. Any impression in the public mind that these decisions are reopened would, in our opinion, be fatal. It was because we felt that it was necessary in the public interest to emphasise that problems have been finally settled that we insisted on the holding of the Constituent Assembly on the date fixed for it. Even this date, it must be remembered, was five months after the election of the members. Any further postponement in the present context would, in all probability, result in the abandonment of the plan and create a feeling of uncertainty all round which is not only undesirable, but actually, at the present juncture, would encourage various forms of violent propaganda.

It is difficult enough at this stage for us to leave the country even for a short while. We have also to prepare for the Constituent Assembly meeting which will take place in less than two weeks. If any useful purpose would have been served by our going out now, we should have done so in spite of these difficulties. We are convinced, however, that our leaving India now would mean that at the instance of the League the Cabinet Mission's plan is going to be abandoned or substantially varied and that we are parties to it. It would mean giving in to the League's intransigence and incitement to violence and this would have disastrous consequences. The first thing to be certain about is that plans agreed to will be implemented and that there will be a continuity of policy. There has been suspicion enough. Any addition to it will wreck the whole scheme and make it difficult to replace it by another. We feel, therefore, that we cannot, at this

stage, proceed to London but we would welcome, wherever necessary, consultations with the representatives of the British Government in India. A brief visit now on our part to England cannot bear fruit. It is likely to have a contrary result. We, therefore, regret we are unable to accept His Majesty's Government's invitation conveyed to us through you. I trust you will convey the contents of this letter to H.M.G.

(II) CABLE FROM ATTLEE TO NEHRU

November 27, 1946

I very much hope that you will agree to come to London since it is not possible at present time for me or my colleagues who have already been absent more than three months on Indian affairs this year to go to India.

The object of our talks would be to try and ensure a successful meeting of the Constituent Assembly on December 9th. There is no intention of abandoning either decisions of Assembly to meet or plan put forward by Cabinet Delegation. It is our desire to see that this is implemented in full and not any desire to abandon or alter it that has prompted us to ask you and your colleagues to come to London.

All three Members of Cabinet Delegation individually and collectively have asked me to urge upon you the supreme importance of this opportunity of our meeting and discussing situation before any further untoward actions take place in India.

We ask you to help in this way to make rapid and smooth progress towards the goal of Indian freedom, an objective which we share wholeheartedly with people of India.

(III) CABLE FROM NEHRU TO ATTLEE

November 28, 1946

I am grateful to you for your message and appreciate your desire to ensure a successful meeting of the Constituent Assembly on December ninth and onwards. We are all anxious that the Constituent Assembly should meet on the date fixed and should proceed harmoniously to fulfil its task and we shall do our utmost to this end in co-operation with others.

As we have repeatedly stated we accept the Cabinet Delegation's plan in its entirety. In regard to a certain interpretation we made our position perfectly clear to the Delegation and we have proceeded accordingly since then. We have further stated that in the event of different interpretations the matter should be referred to the Federal Court and we shall abide by Court's decision.

It appears from the statements made on behalf of British Government in Parliament yesterday that only point to be considered is this interpretation. In regard to this our position is quite clear and we are completely

committed to it. We are unable to change it and have no authority to do so. Hence our visiting London for this purpose is not necessary.

The first session of the Constituent Assembly will deal with matters of procedure and appointment of committees. The question of interpretation as regards subsequent activities will not arise at this stage. It is therefore easily possible for all to co-operate in this session and if necessity arises to refer any matter over which agreement has not been reached to Federal Court.

It would be more suitable and convenient for us to visit London if necessary after first brief session of the Constituent Assembly. This would allow more time for consultations.

In view of these considerations and also because of great difficulty in leaving India at present we feel that our visit to London now would serve no useful purpose; but if in spite of this or because you wish to consider other matters you desire us to come, we shall endeavour to do so. But we shall have to return by December 9th in time for the Constituent Assembly.

#### (IV) STATEMENT ISSUED BY HIS MAJESTY'S GOVERNMENT December 6, 1946

The conversations held by H.M.G. with Pandit Nehru, Mr. Jinnah, Mr. Liaquat Ali Khan and Sardar Baldev Singh came to an end this evening as Pandit Nehru and Sardar Baldev Singh are returning to India tomorrow morning.

The object of the conversations has been to obtain the participation and co-operation of all parties in the Constituent Assembly. It was not expected that any final settlement could be arrived at since the Indian representatives must consult their colleagues before any final decision is reached.

The main difficulty that has arisen has been over the interpretation of paragraph 19(v) and (viii) of the Cabinet Mission's statement of May 16th relating to the meetings in sections which run as follows :

Paragraph 19(v).—These sections shall proceed to settle provincial constitutions for the Provinces included in each section and shall also decide whether any group constitution shall be set up for those Provinces and if so with what provincial subjects the group should deal. Provinces shall have power to opt out of groups in accordance with provisions of sub-clause (viii) below.

Paragraph 19(viii).—As soon as the new constitutional arrangements have come into operation, it shall be open to any Province to elect to come out of any Group in which it has been placed. Such a decision shall be taken by the new Legislature of the Province after the first general election under the new constitution.

The Cabinet Mission have throughout maintained the view that the decisions of the sections should, in the absence of an agreement to the contrary, be taken by a simple majority vote of the representatives in the sections. This view has been accepted by the Muslim League, but the Congress have

put forward a different view. They have asserted that the true meaning of the statement, read as a whole, is that the Provinces have the right to decide both as to grouping and as to their own constitution.

H.M.G. have had legal advice which confirms that the Statement of May 16th means what the Cabinet Mission have always stated was their intention. This part of the statement, as so interpreted, must therefore, be considered an essential part of the scheme of May 16th for enabling the Indian people to formulate a new constitution which H.M.G. would be prepared to submit to Parliament. It should, therefore, be accepted by all parties in the Constituent Assembly.

It is, however, clear that other questions of interpretation of the Statement of May 16th may arise and H.M.G. hope that if the Council of the Muslim League are able to agree to participate in the Constituent Assembly, they will also agree, as have the Congress, that the Federal Court should be asked to decide matters of interpretation that may be referred to them by either side and will accept such a decision, so that the procedure, both in the Union Constituent Assembly and in the sections, may accord with the Cabinet Mission's plan. On the matter immediately in dispute, H.M.G. urge the Congress to accept the view of the Cabinet Mission in order that the way may be open for the Muslim League to reconsider their attitude. If, in spite of this reaffirming of the intention of the Cabinet Mission, the Constituent Assembly desires that this fundamental point should be referred for decision of the Federal Court such reference should be made at a very early date. It will then be reasonable that the meetings of the sections of the Constituent Assembly should be postponed until the decision of the Federal Court is known.

There has never been any prospect of success for the Constituent Assembly except upon the basis of an agreed procedure. Should a constitution come to be framed by a Constituent Assembly in which a large section of Indian population had not been represented H.M.G. could not of course contemplate—as Congress have stated they would not contemplate—forcing such a constitution upon any unwilling parts of the country.

#### (V) THE CONGRESS WORKING COMMITTEE'S STATEMENT

December 22, 1946

The Working Committee have given careful consideration to the statement issued by the British Government on December 6, 1946, as well as other statements made recently on their behalf in Parliament. These statements, though made by way of interpretation and elucidation, are clearly additions to, and variations of, the British Cabinet Mission's statement of May 16, 1946, on which the whole scheme of the Constituent Assembly was based.

The statement of May 16, 1946, laid down in Paragraph 15 as basic principles of the constitution that "there should be a Union of India

embracing both British India and the States", that "all subjects other than Union subjects and all residuary powers should vest in the provinces", and that the "provinces should be free to form groups". The provinces were thus intended to be autonomous, subject to the Union controlling certain specified subjects. Paragraph 19 laid down *inter alia*, the procedure for sections to meet, for decisions to be taken as to whether groups should be formed or not, and for any province to elect to come out of the group in which it might have been placed.

In their resolution of May 24, 1946, the Working Committee pointed out what appeared to be a divergence between the basic principles and the procedure suggested, in that a measure of compulsion was introduced which infringed the basic principles of provincial autonomy. Cabinet Mission thereupon issued a statement on May 25, 1946, in which it was stated that:

the interpretation put by the Congress resolution on Paragraph 15 of the Statement, to the effect that the provinces can, in the first instance, make the choice whether or not to belong to the section in which they are placed does not accord with the Delegation's intentions. The reasons for the grouping of provinces are well-known and this is an essential feature of the scheme and can only be modified by agreement between the two parties.

The point at issue was not merely one of procedure but the fundamental principle of provincial autonomy and whether or not a province or part should be coerced against its will.

The Congress made it clear later that their objection was not to provinces entering sections but to compulsory grouping and the possibility of a dominating province framing a constitution for another province entirely against the wishes of the latter. This might result in the framing of rules, and the regulation of franchise, electorates, constituencies for elections and the composition of the legislature which might seriously prejudice or even nullify the provision for a province subsequently to opt out of a group.

It was pointed out that this could never be the intention of the Cabinet Mission as it would be repugnant to the basic principles and policy of the scheme they had propounded. The Congress approach to the problem of constitution-making has all along been that coercion should not be exercised against any province or part of the country, and that the constitution of free India should be drawn up with the co-operation and goodwill of all parties and provinces concerned.

In a letter dated June 15, 1946, from Lord Wavell to Maulana Azad, the President of the Congress, it was stated that :

the Delegation and I are aware of your objections to the principle of grouping. I would, however, point out that the statement of May 16 does not make grouping compulsory. It leaves the decision to the elected representatives of the provinces concerned, sitting together in sections. The only provision which is made is that the representatives of certain provinces should meet in sections so that they can decide whether or not they wish to form groups.

Thus the principle which was emphasized again was that grouping was not compulsory and, in regard to sections, a certain procedure was indicated. This procedure was not clear and could be interpreted in more than one way and, in any event a point of procedure could not override a basic principle. We pointed out that the right interpretation should be one which did no violence to that principle. Further, in order to smooth the way to the co-operation of all concerned in the working of the proposed scheme, we not only made it clear that we were prepared to go into the sections, but also suggested that, if our interpretation was not accepted, we would be agreeable to a reference on this point to the Federal Court.

It is well-known that the proposal in regard to grouping affected injuriously two provinces especially, namely, Assam and the North-West Frontier Province, as well as the Sikhs in the Punjab. Their representatives expressed their strong disapproval of this proposal. In a letter to the Secretary of State dated May 25, 1946, Master Tara Singh gave expression to the anxiety and apprehensions of the Sikhs and asked for clarification in regard to certain matters. The Secretary of State sent an answer to this letter on June 1, 1946, in the course of which he said: "I have considered carefully the detailed points you raise at the end of your letter. I fear the Mission cannot issue any additions to, or interpretation of, the statement".

In spite of this explicit statement, the British Government have, on December 6, issued a statement which is both an addition to, and an interpretation of, the statement of May 16, 1946. They have done so after more than six and a half months, during which period many developments have taken place as a consequence of the original statement.

Throughout this period the position of the Congress was made repeatedly clear to the British Government or their representatives and it was with full knowledge of this position that the British Government took subsequent steps in furtherance of the Cabinet Mission's proposals. The position was in conformity with the basic principles laid down in the statement of May 16, 1946, which statement the Congress had accepted in its entirety.

Further, the Congress had expressed its willingness to refer, if necessity arose, the point of interpretation to the Federal Court, whose decision should be accepted by the parties concerned. In the course of his letter dated June 28, 1946, addressed to Mr. Jinnah, the Viceroy stated that "Congress had accepted the statement of May 16". In the course of a broadcast on August 24, 1946, the Viceroy, in appealing to the Muslim League to co-operate, pointed out that the Congress are ready to agree that any dispute of interpretation may be referred to the Federal Court.

The Muslim League reversed its former decision and rejected the British Cabinet Mission's scheme by a formal resolution, and even decided to resort to direct action. Their spokesmen have since repeatedly challenged the very basis of that scheme, that is, the constitution of a Union of India, and have reverted to their demand for a partition of India. Even after the

British Government's statement of December 6, 1946, the leaders of the Muslim League have reiterated this demand for partition and the establishment of two separate independent Governments in India.

When the invitation of the British Government was received by the Congress at the end of November last to send its representatives to London, the Congress position was clearly indicated again. It was on an assurance of the Prime Minister of Britain that a representative of the Congress proceeded to London.

In spite of this assurance and the previous assurances to the effect that no additions to, or interpretations of, the statement of May 16, 1946, were going to be made, the British Government have now issued a statement which clearly, in several respects, goes beyond the original statement, on the basis of which progress has been made till now.

The Working Committee deeply regret that the British Government should have acted in a manner which has not been in keeping with their own assurances, and which has created suspicion in the minds of large numbers of people in India. For some time past the attitude of the British Government and their representatives in India has been such as to add to the difficulties and complexities of the situation in the country. Their present intervention, long after the members of the Constituent Assembly had been elected, has created a new situation which is full of peril for the future. Because of this, the Working Committee have given anxious and prolonged thought to it.

The Congress seeks to frame, through the Constituent Assembly, a constitution of a free and independent India with the willing co-operation of all elements of the Indian people. The Working Committee regret that Muslim League members of the Constituent Assembly have refrained from attending its opening session.

The committee, however, appreciate and express their gratification at the presence in the Constituent Assembly of representatives of all other interests and sections of the people of India, and note with pleasure the spirit of co-operation in a common task and a high endeavour which has been in evidence during the sessions of the Assembly.

The committee will continue their efforts to make the Constituent Assembly fully representative of all the people of India and trust that members of the Muslim League will give their co-operation in this great task. In order to achieve this, the committee have advised Congress representatives in the Assembly to postpone consideration of important issues to a subsequent meeting.

In their statement of December 6, 1946, the British Government, in giving their interpretation of a doubtful point of procedure, have referred to it as a "fundamental point", and suggested that the Constituent Assembly may refer it to the Federal Court at a very early date. Subsequent statements made on behalf of the British Government have made it clear

that they are not prepared to accept the decision of this Court should it go against their own interpretation. On behalf of the Muslim League also it has been stated that they will not be bound by the decision of the Federal Court and a demand for the partition of India, which is a negation of the Cabinet Mission's scheme, continues to be put forward.

While the Congress has always been willing to agree to a reference to the Federal Court, any reference now, when none of the other parties are prepared to join in it or to accept it, and one of them does not even accept the basis of the scheme, becomes totally uncalled for and unbecoming, and unsuited to the dignity of either the Congress or the Federal Court. By their repeated statements, British statesmen have ruled this out.

The Working Committee are still of the opinion that the interpretation put by the British Government in regard to the method of voting in the sections is not in conformity with provincial autonomy, which is one of the fundamental bases of the scheme proposed in the statement of May 16. The committee are anxious to avoid anything that may come in the way of the successful working of the Constituent Assembly, and are prepared to do everything in their power to seek and obtain the largest measure of co-operation, provided that no fundamental principle is violated.

In view of the importance and urgency of the issues facing the country and the far-reaching consequences which must follow any decisions, the Working Committee are convening an emergent meeting of the A.I.C.C., in Delhi early in January to consider the latest developments and to give such directions as it may deem fit.

#### (VI) CONGRESS RESOLUTION ON H.M.G.'S STATEMENT

January 5-6, 1947

The A.I.C.C., having considered the events that have taken place in the country since the Meerut session of the Congress in November last, the statement issued by the British Government on December 6, 1946, and the statement of the Working Committee of December 22, 1946, advises Congressmen as follows :

"The A.I.C.C. endorses the statement of the Working Committee of December 22, 1946, and expresses its agreement with the view contained therein.

While the Congress has always been agreeable to making a reference to the Federal Court on the question of the interpretation in dispute, such a reference has become purposeless and undesirable owing to the recent announcements made on behalf of the British Government. A reference could only be made on an agreed basis, the parties concerned agreeing to abide by the decision given.

The A.I.C.C. is firmly of opinion that the constitution for a free and independent India should be framed by the people of India on the



basis of as wide an agreement as possible. There must be no interference whatsoever by any external authority, and no compulsion of any province or part of a province by another province. The A.I.C.C. realizes and appreciates the difficulties placed in the way of some provinces, notably Assam, the N.W.F.P. and Baluchistan, and the Sikhs in the Punjab, by the British Cabinet's scheme of May 16, 1946 and more especially by the interpretation put upon it by the British Government in their statement of December 6, 1946. The Congress cannot be a party to any such compulsion or imposition against the will of the people concerned—a principle which the British Government have themselves recognized.

The A.I.C.C. is anxious that the Constituent Assembly should proceed with the work of framing a constitution for free India with the goodwill of all parties concerned and, with a view to removing the difficulties that have arisen owing to varying interpretations, agree to advise action in accordance with the interpretation of the British Government in regard to the procedure to be followed in the Sections. It must be clearly understood, however, that this must not involve any compulsion of a province and that the rights of the Sikhs in the Punjab should not be jeopardized. In the event of any attempt at such compulsion, a province or part of a province has the right to take such action as may be deemed necessary in order to give effect to the wishes of the people concerned.

The future course of action will depend upon the developments that take place and the A.I.C.C., therefore, directs the Working Committee to advise upon it, whenever circumstances so require, keeping in view the basic principle of provincial autonomy."

(VII) MUSLIM LEAGUE RESOLUTION ON H.M.G.'S STATEMENT  
January 31, 1947

The Working Committee of the All-India Muslim League have given careful consideration to the statement issued by His Majesty's Government on December 6, 1946, the resolution passed thereafter by the Congress Working Committee on December 22, 1946, and by the A.I.C.C. on January 6, 1947, the speeches delivered by responsible leaders of the Congress at the A.I.C.C. session referred to above, and the proceedings of the Constituent Assembly during its two sessions so far held; and record their views as follows :

By their statement of December 6, His Majesty's Government admitted that the interpretation which the Muslim League had always put on paragraphs 19(v) and 19(viii) of the Cabinet Mission's statement of May 16 was the correct one and accorded with the intention of the Cabinet Mission and His Majesty's Government. By that statement it was also proved that

the Congress, on the other hand, had "put forward a different view" and, therefore, had not accepted what His Majesty's Government themselves described as "this fundamental point", namely, that decision in the Sections, including questions relating to the settling of the constitutions of the provinces included in each group, "should in the absence of agreement to the contrary, be taken by a simple majority vote of the representatives in the Sections." His Majesty's Government furthermore, added that "this Statement as so interpreted, must therefore be considered an essential part of Scheme of May 16 for enabling the Indian people to formulate a constitution which His Majesty's Government would be prepared to submit to Parliament." Accordingly, in their statement of December 6, they urged the Congress to accept "this re-affirmation of the intention of the Cabinet Mission", or in the alternative to refer the point to the Federal Court at a very early date.

In their statement of December 6, His Majesty's Government also affirmed that the Congress had agreed that other questions of interpretation of the statement of May 16 which might arise might be referred by either side to the Federal Court whose decisions should be accepted, and, on the assumption that the Congress had agreed to this procedure, His Majesty's Government asked the Muslim League also to agree to it in order to ensure that "the procedure both in the Union Constituent Assembly and in the Sections may accord with the Cabinet Mission's Plan."

Thirdly, His Majesty's Government in the last paragraph of their statement of December 6, reiterated the fact that "there have never been any prospect of success for the Constituent Assembly except upon the basis of the agreed procedure", and they repeated the assurance: "Should the constitution come to be framed by a Constituent Assembly in which a large section of the Indian population had not been represented, His Majesty's Government would not of course contemplate—as the Congress have stated they would not contemplate—forcing such a constitution upon any unwilling parts of the country." The meaning and the application of this assurance were further clarified by Sir Stafford Cripps in his speech in the House of Commons on December 12, 1946, when he said, "But the Government also had to envisage the possibility in the clause in the final paragraph of the statement." This was perhaps a statement of the obvious—that if the Muslim League could not be persuaded to come into the Constituent Assembly, then parts of the country where they were in a majority could not be held to be bound by the results.

The situation created by the issue of this statement by His Majesty's Government was that the onus of taking the next step fell on the Congress and they were called upon:

1. To accept honestly and unequivocally the correct interpretation of paragraphs 19(v) and 19(viii) of the Cabinet Mission's Statement of May 16 which interpretation had been already accepted by the Muslim League, or to refer the point to the Federal Court;

2. To re-affirm that they accepted the procedure for the settling of other questions of interpretation that might arise, so that the decision should accord with the basic and fundamental principles of the Scheme of May 16, 1946, namely that either side could refer such questions to the Federal Court whose decisions would be binding on all concerned; and
3. To postpone the session of the Constituent Assembly which had been called for the 9th December, 1946, pending settlement of the dispute over fundamental points of principle and procedure which had been brought to the fore by the statement of December 6 and the correct interpretation of which the Congress had not accepted, as was made clear in that statement, there being no prospect of success for the Constituent Assembly without such agreement, particularly on the part of the Congress.

The Working Committee of the All-India Muslim League regret to note that the Congress have reacted to the situation created by the statement of December 6 in a manner which shows that they are determined to adhere to their own views and interpretations of fundamental provisions in the Cabinet Mission's Statement of May 16, which militate against clearly expressed intentions and interpretations of the authors of that statement as well as of His Majesty's Government as a whole and which destroy the very basis on which the constitutional plan set forth in that statement had been drawn up.

By their resolution of December 22, the Congress Working Committee rejected the suggestion that the point in dispute should be referred to the Federal Court if the Congress did not accept "this re-affirmation of the intention of the Cabinet Mission", and that committee decided to convene a meeting of the All-India Congress Committee for the purpose of giving a decision on the issue raised by the statement of December 6. The Working Committee of the Congress, however, in their resolution indulged in an attack on the British Government for their renewed interpretation and clarification, which had called the Congress bluff, and on the Muslim League for no other fault except that its stand had been at last vindicated.

The A.I.C.C. by its resolution passed on January 6, purported "to agree to advice action in accordance with the interpretation of the British Government in regard to the procedure to be followed in the Sections", about which there never was any doubt in the mind of any sane and honest person, but it immediately added the following qualifying clauses: "It must be clearly understood, however, that this must not involve any compulsion on a Province and that the rights of Sikhs in the Punjab should not be jeopardised. In the event of any attempt at such compulsion, a Province or part of a Province has the right to take such action as may be deemed necessary in order to give effect to the wishes of the people concerned. The future course of action will depend upon the developments that take place and the

A.I.C.C. therefore, directs the Working Committee to advise upon it, whenever circumstances so require keeping in view the basic principle of provincial autonomy."

These qualifying clauses, in the considered opinion of the Working Committee of the All-India Muslim League, confer the right of veto within the Section on a "Province" and, what is more absurd, on "a part of Province", as well as on the Sikhs in the Punjab, and, therefore, they completely nullify the advice or the so-called "acceptance" by the Congress of the December 6 Statement and this A.I.C.C. resolution is no more than a dishonest trick and jugglery of words by which the Congress has again attempted to deceive the British Government, the Muslim League and public opinion in general.

The question at issue was a very simple one. What was required was a straight and honest answer and not these evasions, equivocations and camouflage from one of the two major contracting parties to the questions whether the Congress honestly and sincerely agreed to the proposals of May 16, as clarified by His Majesty's Government on December 6, 1946, and whether they were prepared to honourably abide by them and carry out the letter and spirit of the proposals which were put before the two major parties by the British Government, who were merely acting as mediators, as unfortunately the two major parties had failed to come to any agreement at Simla and the Conference at Simla had broken down.

Of the second point in H.M.G.'s statement of December 6, the procedure whereby either side could refer other questions of interpretation to the Federal Court, the resolution of the A.I.C.C. makes no mention, but the mover of the resolution, Pandit Jawaharlal Nehru, on being questioned on the second day of the A.I.C.C.'s deliberations as to whether the Congress had agreed to this procedure categorically answered in the negative and declared: "Apart from this, in view of the recent development and the statement of December 6, which produces a new situation, I am not prepared to admit for an instant that we have agreed to any future procedure about references. Whatever the future brings we shall have to consider it. I should like to make it perfectly clear that we are giving no assurance about any references in regard to any other matters to the Federal Court. We are not going to commit ourselves at the present moment to any reference to the Federal Court or to any other authority. We shall decide—or the Constituent Assembly shall decide—as we think best in the circumstances."

With regard to the third point, namely, that "if a constitution comes to be framed by a Constituent Assembly in which a large section of the Indian population had not been represented", such a constitution would not be forced upon any "unwilling parts of the country", the A.I.C.C. resolution, in Paragraph 3, completely distorts the meaning and application of this principle and makes this an excuse to instigate a section of

the population of Assam, the North-West Frontier Province, the Sikh and even Baluchistan, to revolt against the decisions that might be taken by the relevant Sections sitting as a whole and by a simple majority vote. In the opinion of the Working Committee of the All-India Muslim League the subsequent decision of the Assam Provincial Congress not to abide by the procedure laid down for Sections and its reiteration that "the constitution for Assam shall be framed by her own representatives only" is a direct result of this instigation and is a step taken by Assam Congressmen in collusion with the All-India leaders of the Congress.

The Constituent Assembly met on December 9, and subsequent dates and thereafter on January 20, and subsequent dates and has already taken decisions of vital character so far as it is known to the public; and as some of the sittings were held *in camera* it is very difficult to get correct information as to what other resolutions it has passed or what decisions it has already taken. It has passed a resolution known as the Independent Sovereign Republic Resolution laying down the objectives. It is not only a proclamation of India as an Independent Sovereign Republic but it lays down fundamentals of the constitution as was admitted by Pandit Jawaharlal Nehru, the mover of the resolution. It is a very vital resolution. It lays down the essentials of the next constitution : several things which are mentioned there are fundamentals of the constitution. It speaks of a Republic, of "Union", functions and powers vested in the "Union" or as are inherent or implied in the Union and resulting therefrom, and talks of present boundaries, States and present authorities, the residuary powers, powers being derived from the people, minority rights and fundamental rights. These are undoubtedly fundamentals of the constitution and they are beyond the limit of the powers and the terms of the Cabinet Mission's Scheme of May 16, and the resolution is therefore illegal, *ultra vires* and not competent to the Constituent Assembly to adopt.

Next, it has appointed several committees and has proceeded to elect the Advisory Committee, referred to in Paragraph 20 of the statement of the Cabinet Mission and the Viceroy on the rights of citizens, minorities, tribal and excluded areas. Further it has appointed a Steering Committee and various other committees and as some of the decisions have been taken *in camera* it is very difficult to say what resolutions it has passed or decisions it has taken. It has also passed the "rules of Procedure" and assumed control of Sections by means of these rules for which there is no warrant or justification particularly Rule 63, which runs as follows :—

63(1) The Assembly shall before finally settling the Union constitutions give an opportunity to the several Provinces and States through their legislatures to formulate, within such time as it may fix, their views upon the resolutions of the Assembly outlining the main features of the constitution or, if the Assembly so decides, upon the preliminary draft of the constitution.

(2) Before the constitution of any Province is finally settled or the decision

to set up a Group constitution for the Section in which the Province is included is finally taken, an opportunity shall be given to the Province concerned through its legislature to formulate, within such time as may be fixed for the purpose, its views (A) upon the resolution outlining the main features of the constitution or, if the majority of representatives of the Province in the Assembly so desire, upon the preliminary draft of such constitution, and (B) upon preliminary decision of the Section concerned as to whether a Group constitution shall be set up for the Provinces included in the Section and, if so, with what Provincial subject the Group should deal.

And lastly, it has appointed a committee to define the scope of the Union subjects whereas the position was made quite clear immediately after the statement of May 16 was issued by the Secretary of State for India in his broadcast and by Sir Stafford Cripps at his Press Conference where he read out an explanatory statement. Both of them stated in the clearest possible terms to the time and manner in which the Group constitutions were to be framed by the Sections concerned before the Union constitution was taken up. The Secretary of State said : "After a preliminary meeting in common, these representatives of the Provinces will divide themselves up into three Sections. These Sections will decide upon Provincial and Group matters. Subsequently they will reunite to decide upon the constitution for the Union." Sir Stafford Cripps at his Press Conference said : "So the three Sections will formulate the Provincial and Group constitutions and when that is done they work together with the States' representatives to make the Union constitution. That is the final phase." And the Union is strictly confined to three subjects.

It is clear from the above that the Constituent Assembly in which only the Congress Party is represented has taken decision on principles and procedure some of which exceed the limitations imposed by the statement of May 16 on the Constituent Assembly's functions and powers at the preliminary stage and which further impinge upon the powers and functions of the Sections. By taking these decisions in the Constituent Assembly and by appointing a packed committee consisting of individuals chosen by the Congress, the Congress has already converted that truncated Assembly into a rump and something totally different from what the Cabinet Mission's statement had provided for.

In view of these facts and circumstances the Working Committee of the All-India Muslim League are definitely of the opinion that the Congress, by rejecting this final appeal of His Majesty's Government to accept the correct interpretation of fundamental procedure of the Cabinet Mission's statement of May 16, and by having already by the resolution and decisions taken in two sessions, converted the Constituent Assembly into a body of its own conception, has destroyed all fundamentals of the statement of May 16 and every possibility of compromise on the

basis of the Cabinet Mission's constitutional plan. The Working Committee accordingly call upon His Majesty's Government to declare that the constitutional plan formulated by the Cabinet Mission as announced on May 16, has failed because the Congress, after all these months of efforts, have not accepted the statement of May 16, 1946, nor have the Sikhs, nor the Scheduled Castes.

The proposals of May 16 could only be given effect to and carried out if the two major parties agreed to accept them. The Congress had not and have not accepted and do not accept them, although the Muslim League had accepted by their resolution the statement of May 16, 1946, as far back as June 6, 1946. But in view of the fact that the Congress refused to accept the proposals *in toto* and unequivocally, the Muslim League had to withdraw its acceptance on July 29, 1946.

The Working Committee of the All-India Muslim League are therefore emphatically of the opinion that the elections to, and thereafter the summoning of the Constituent Assembly, in spite of strong protests and most emphatic objections on the part of the Muslim League, was *ab initio* void, invalid and illegal as not only the major parties had not accepted the statement, but even the Sikhs and the Scheduled Castes had also not done so; and that the constitution of the Constituent Assembly and its proceedings and decisions are *ultra vires*, invalid and illegal and it should be forthwith dissolved.

In view of these facts and circumstances the Working Committee are clearly of opinion that as the Congress, as a major contracting party, has not accepted the statement of May 16, as clarified by H. M. G.'s statement of December 6, no useful purpose will be served summoning a meeting of the Council of the All-India Muslim League to reconsider its decision of July 29, 1946, whereby it has withdrawn the acceptance of the Cabinet Mission's Plan of May 16, 1946.

SETTING UP THE CONSTITUENT ASSEMBLY  
SECRETARIAT—CORRESPONDENCE AND NOTES  
BETWEEN G. E. B. ABELL, PRIVATE  
SECRETARY TO THE VICEROY, B. N. RAU  
AND RAJENDRA PRASAD  
June—December 1946

*[Soon after the announcement of the Cabinet Mission's statement of May 16, 1946, steps were taken by the Secretary to the Governor-General (Reforms), V. P. Menon, for setting up Secretariats to assist with the drafting of the new constitutions for the Provinces, Groups and Union. The Governor-General requested B. N. Rau to prepare a suitable scheme for the organisation of the Secretariats. In his note on the outline of an organisation for the Constituent Assembly submitted to the Governor-General B. N. Rau dealt at length on the role of the Constitutional Adviser and the Provincial Secretariats. The scheme, subject to minor amendments, was approved by the Governor-General. The relevant papers are reproduced below.]*

(I) OUTLINE OF AN ORGANISATION FOR THE CONSTITUENT  
ASSEMBLY BY B. N. RAU  
June 5, 1946

THERE SHOULD BE a Secretary for each of the 3 Sections A, B and C and one for the Indian States.

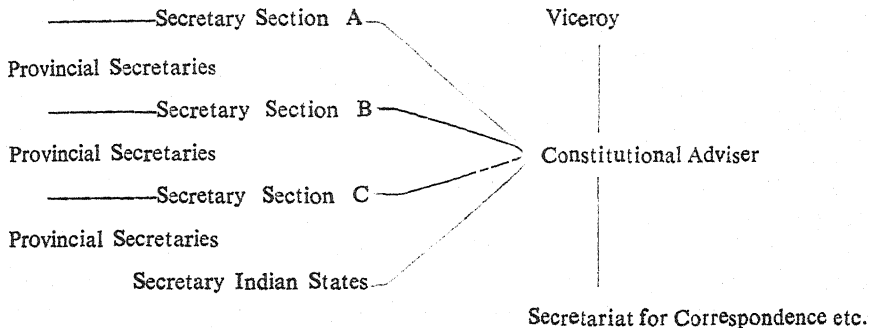
Each of the Section Secretaries should have, under him, Provincial Secretaries, one for each Province (Governor's Province) in the Section. This is necessary, because it is the function of each Section to settle not only the Group constitution, if any, but also the constitution of each Province within the Section; and for this latter purpose, if not for the former as well, technical knowledge and information regarding the Provincial administration will be essential. For example, no one will be able to draft a satisfactory constitution for Assam without intimate knowledge of its sharply contrasted valleys, its excluded and partially excluded areas, its 25 odd Khasi States, etc. and I think the Drafting Committee, which the Section Constituent Assembly will doubtless appoint,



would need the assistance of a Provincial Secretary capable of supplying this material.

The Section Secretariats and the Indian States Secretariat should be *associated with*—we need not say, subordinate to—a Constitutional Adviser, who should co-ordinate the work of the Sections and whose advice should be available to all of them equally whenever they ask for it, whether they are sitting separately (as when settling the Group constitution) or jointly (as when settling the Union constitution). Under the Constitutional Adviser, there should be a Secretariat modelled on the existing Legislative Assembly Secretariat to deal with correspondence and with such matters as the accommodation and travelling allowance of members, seating arrangements, and possibly also drafting of minor importance. The Constitutional Adviser should have direct access to H. E. (Viceroy) to report progress, and difficulties, if any.

Pictorially, the Organisation will be as follows :—



As to personnel, P. S. V. (Private Secretary to the Viceroy) was good enough to sound me whether I would be prepared to take charge of the Organisation. I shall be glad to do so, if H. E. after consulting the Interim Government so decides. There is, however, one suggestion I should like to make in this connection: if I am to be the Constitutional Adviser (or whatever other designation may be decided upon), I should like all my work in that capacity and all my future work in connection with the Treaty to be on an honorary basis (subject only to the provision of a house and appropriate travelling facilities). I make the suggestion for the following reasons:

- (a) No party should feel or be in a position to say that any advice I may give is dictated or influenced by extraneous considerations.
- (b) If the framing of the new constitution should be delayed—as it might well be by its own complexity—no one should be in a position to say that the Organisation is delaying it in order to prolong its own existence.

## (II) LETTER FROM G. E. B. ABELL TO B. N. RAU

June 8, 1946

I have shown H. E. your note on the outline of an organisation for the Constituent Assembly. He is grateful for the trouble you have taken over it and agrees generally subject to what is stated below. He is glad to hear of your willingness to act as Constitutional Adviser, and to do so in an honorary capacity. He proposes to discuss this matter with the Interim Government as soon as possible after its formation, but the ultimate decision in this as in all other matters will clearly rest with the Constituent Assembly.

2. H. E., having read your note, has a little doubt whether you fully appreciate how formidable is the task that has to be confronted. The present Government of India Act was evolved as the result of an immense amount of hard work by a team of experts, and though the new constitution may seem likely to be simpler, it is obvious that with the Union, the Groups and the Provinces to deal with, and the recommendations of the Advisory Committee on Minorities etc. to consider, there will be an immense amount of work to be done. It is also clear that work must be done in a fairly short period for reasons which you appreciate.

3. H. E. has no doubt that under the Constitutional Adviser it will be necessary to have a powerful team. The drafting sub-committee of the Constituent Assembly, or whatever it may be, will inevitably want notes on all sorts of matters financial, strategical and commercial, as well as on precedents, from other constitutions etc. It will be impossible to provide and assimilate the necessary information without a substantial and efficient staff. Nor will the Constitutional Adviser's office be able to give the necessary help to the Secretariats of the sections and Provinces unless it is equipped to do so.

4. Again, on the administrative side H. E. thinks that the work will be heavier than you appear to contemplate. He does not think you will be able to work entirely through the Legislative Assembly office, and he would prefer to see an efficient administrative office set up as soon as possible to serve the Union Constituent Assembly.

5. He thinks that the Secretariat of the Constitutional Adviser should be as independent as possible from the Government of India; he believes financial arrangements to give effect to this would not be difficult to make. The office should certainly not be in any sense a Department of the Government of India, nor should its contacts with the Government of India be through the department of any Hon'ble Member. It is clear however that before the office can be set up and made independent a great deal of preliminary work is necessary, and H. E. is sure that you and Menon will be able to go ahead with this, subject to confirmation by

the Interim Government and the Constituent Assembly.

6. When the independent office of the Constitutional Adviser is set up H. E. thinks that the correct channel of communication with the Government of India will be through Reforms Commissioner, or, if you like, the Secretary to the Governor General (Public). H. E. will be glad to see the Constitutional Adviser as may be necessary, but obviously the Viceroy will have to keep clear of the constitution-making and ought not to give any impression of trying to influence it.

7. H. E. thinks that you, or Menon, should now write to Governors' Secretaries and the Political Adviser on the lines suggested by you on page 3 of your note in regard to the staffing of the Provincial and Group Secretariats.

8. A matter which should be settled fairly soon is about the financing of the Group Secretariats.

9. Instead of a Secretary for the Indian States H. E. would prefer to have a Liaison Officer.

10. The Secretariat of the Executive Council will be able to help a great deal with appreciations on matters affecting more than one department of the Government of India, and I gather from Coates that they will be glad to do so. The means of securing such advice will however be to state your requirements to Menon who will be responsible for collecting the information, whether from the Executive Council office or from departments.

11. Obviously the above outline is liable to amendment when all these questions have been discussed with the Interim Government, but H. E. hopes this is enough to enable you and Menon to proceed. He thinks particular importance should be paid to the securing of the right type of man for the various posts, specially at the Centre where it may be very difficult to secure releases from the Departments of the Government of India. Men with administrative as well as drafting and legal experience will clearly be needed. Croft, whom I have consulted about your note and who I think agrees generally with H. E.'s views as indicated above, suggests that Rajadhyaksha might be useful for a high level drafting post. He was a member of the Secretariat of the Round Table Conference at one stage of its proceedings and is now, as you know, a Judge of the Bombay High Court.

### (III) LETTER FROM B. N. RAU TO G. E. B. ABELL

June 15, 1946

Please refer to your D. O. letter No. 592/56 dated June 8, 1946, on the subject of a Secretariat organisation for the Constituent Assembly.

Under certain conditions, the drafting of the new constitution may prove unexpectedly simple; but, of course, under certain other conditions, it may

prove very difficult. Much will depend on the attitude of the various parties in the coming months and this it is impossible to predict. If an Interim Government is formed at the Centre and if the different parties work together for certain common ends for a few months, there is ground for hoping that they may come to realise that a constitution is only a means to an end and that the simplest and quickest means, consistent with the recommendations of the Cabinet Mission, is what they all need. In that event, the task of framing the new constitution should not be very difficult. I say this after having actually tried my hand at a certain type of draft; but, of course, the parties may or may not be satisfied with that type. In these circumstances, I thought it best to provide for a minimum of staff at this stage, although care will be taken to budget for all possible requirements that can be foreseen, so that additional staff can be engaged whenever necessary.

I have prepared drafts for issue to Governors' Secretaries and to the Political Adviser. Menon will send them to you shortly as H. E. may wish to see them before issue.

#### (IV) DRAFT LETTERS FOR ISSUE TO GOVERNORS' SECRETARIES AND TO THE POLITICAL ADVISER BY B. N. RAU

The first meeting of the Union Constituent Assembly, set up by the Cabinet Delegation's statement of May 16, 1946, is expected to be held in New Delhi some time in August next. The Assembly and its Sections will necessarily have to be provided with a Secretariat for drafting and other purposes. Any arrangements to this end will have to be discussed with the Interim Government at the Centre and the ultimate decision must clearly rest with the Constituent Assembly. It is, however, desirable that preliminary steps should be taken immediately, all proposed appointments being subject to confirmation by the Assembly.

2. You will doubtless remember that the Assembly, after a preliminary meeting, is to divide up into three Sections, A, B and C. Each Section has to settle the Provincial constitutions for the Provinces included in the Section and also the Group constitution, if any, for those Provinces. Thereafter the Sections have to re-assemble and settle the constitution of the Union.

3. It is now proposed that each Section should have a Secretary and that all the Secretaries should be associated with a Constitutional Adviser whose function it will be to co-ordinate the work of all the Sections and whose advice will be available to all or any of them, whether they are sitting jointly or separately. It is also proposed that under each Sectional Secretary, there should be Provincial Secretaries, one for each of the Provinces included in the Section. This is necessary because it may not

be possible for any drafting committee to proceed with the framing of a satisfactory constitution for a Province without technical knowledge or information relating to the Provincial administration and they will, therefore, need the services of a Provincial Secretary who can supply the necessary material.

\*4. So far as a Secretary for Section A is concerned, we hope to make a satisfactory selection ourselves and it will not be necessary to trouble the Governors of individual Provinces in the matter. But, as regards a Provincial Secretary, only the Governor, after consulting his Ministers, can make a satisfactory selection. The person to be appointed should have administrative experience, drafting capacity and some knowledge of constitutional law. I am, therefore, to request that you will be so good as to move His Excellency to take the necessary steps for the purpose and communicate the name of the selected person to me as early as possible. The selection, as already stated, will be subject to the approval of the Constituent Assembly.

†4. It is proposed that the selection of a Secretary for Section B should be left to the Governor of the Punjab (the Punjab being the dominant Province in the Section) who will consult the Governor of Sind and the Governor of the North-West Frontier Province before making the selection. Each Governor will, of course, consult his Ministers also. The selection of a Provincial Secretary for the Punjab is proposed to be left to the Governor of the Punjab who, in this matter also, will consult his Ministers. The persons selected should have administrative experience, drafting capacity, and some knowledge of constitutional law. I am, therefore, to request that you will be so good as to move His Excellency to take the necessary steps for these purposes and to communicate the names of the selected persons to me as early as possible. The selections, as already stated, will be subject to the approval of the Constituent Assembly.

‡4. It is proposed that the selection of a Secretary for Section B should be made by the Governor of the Punjab (the Punjab being the dominant Province in the Section) in consultation with the Governors of Sind and the N.W. F.P. Each Governor will, of course, consult his Ministers also. The selection of a Provincial Secretary is proposed to be left to the Governor of the Province concerned, who, in this matter also, will consult his Ministers. The person selected should have administrative experience, drafting capacity, and some knowledge of constitutional law. I am, therefore, to request that you will be so good as to move His Excellency to take the necessary steps for the purpose and communicate the name of the selected person to me as

\*To Secretaries to the Governors of Provinces in Section A.

†To Secretary to the Governor of the Punjab.

‡To Secretaries to the Governors of Sind and North-West Frontier Province.

early as possible. The selection, as already stated, will be subject to the approval of the Constituent Assembly.

\*4. It is proposed that the selection of a Secretary for Section C should be left to the Governor of Bengal (Bengal being the dominant Province in the Section) who will consult the Governor of Assam before making the selection. Each Governor will, of course, consult his Ministers also. The selection of a Provincial Secretary for Bengal is proposed to be left to the Governor of Bengal who, in this matter also, will consult his Ministers. The persons selected should have administrative experience, drafting capacity, and some knowledge of constitutional law. I am, therefore, to request that you will be so good as to move His Excellency to take the necessary steps for these purposes and to communicate the names of the selected persons to me as early as possible. The selections, as already stated, will be subject to the approval of the Constituent Assembly.

\*4. It is proposed that the selection of a Secretary for Section C should be made by the Governor of Bengal (Bengal being the dominant Province in the Section) in consultation with the Governor of Assam. Each Governor will, of course, consult his Ministers also. The selection of a Provincial Secretary is proposed to be left to the Governor of the Province concerned, who, in this matter also, will consult his Ministers. The person selected should have administrative experience, drafting capacity, and some knowledge of constitutional law. I am, therefore, to request that you will be so good as to move His Excellency to take the necessary steps for the purpose and communicate the name of the selected person to me as early as possible. The selection, as already stated, will be subject to the approval of the Constituent Assembly.

†4. So far as the Indian States are concerned, it is proposed that they should have a liaison officer corresponding to the three Sectional Secretaries. I am to request that you will be so good as to take the necessary steps for the selection of a suitable person for this appointment and communicate his name to me as soon as possible. The appointment will, of course, be subject to confirmation by the Constituent Assembly.

††5. Each province will be expected to bear the cost of its own Provincial Secretary; how the cost of the Group Secretary is to be met is a matter which is still under consideration.

\*\*\*5. How the cost of the Liaison Officer is to be met is a matter which is under consideration.

\*To Secretary to the Governor of West Bengal.

\*\*To Secretary to the Governor of Assam.

†To Political Adviser only.

††Not to Political Adviser.

\*\*\*To Political Adviser only.

(v) NOTE ON THE SECRETARIAT ORGANISATION AND FINANCIAL  
ARRANGEMENTS FOR THE CONSTITUENT ASSEMBLY  
PREPARED BY THE REFORMS OFFICE  
July 24, 1946

I. CONSTITUTIONAL ADVISER

It is proposed that there should be a Constitutional Adviser to the Constituent Assembly. His functions would be two-fold.

- (a) He will be available to advise the various Constituent Assemblies whether they are sitting separately (as when settling the Group and Provincial constitutions) or jointly (as when settling the Union constitution). He will have an adequate staff of draftsmen who will be available to the Group Assemblies and to the Union Assembly.
- (b) He will maintain liaison with Indian States, and will have accredited to him a liaison officer for the purpose of dealing with matters affecting Indian States.

II. SECRETARIAT

1. The Secretariat of the Constituent Assembly will consist of 4 compartments, namely,

- (i) the Secretariat of the Union Constituent Assembly;
- (ii) three Secretariats, one for each of the Group Assemblies.

2. The Secretariat of the Union Constituent Assembly will deal with the work required by the Union Constituent Assembly or by the Special Advisory Committee on Minorities, Fundamental Rights, Tribal and Excluded areas. It will keep itself acquainted with the progress of the work of the Group Assemblies and their Secretariats. Under the general control of the Chairman of the Union Assembly it will also deal with administrative matters such as accommodation, pay and allowances, cash and accounts, audit, etc., relating to the Assemblies.

3. The Secretariat of each Group Assembly will be under a Secretary, and will deal with the work required by its Group Assembly. Under the Secretary there will be a Secretariat officer from each Province in the Group.

4. Subject to the obligation to keep the Constitutional Adviser and the Union Assembly Secretariat informed of the progress of work in the Group Assemblies, the Group Secretariats will be independent of the Union Secretariat and of each other. Neither the Constitutional Adviser nor any of the Secretariats will in any way be subordinate to the Central Government or to Provincial Governments.

5. The channel of communication between the Union Constituent Assembly or any Group Constituent Assembly and the Government of India will be from the Union Assembly or Group Assembly Secretariat to the Secretariat of the Governor-General (Reforms) which latter will obtain all information required from the various Departments of the Government of India.

6. On this basis, the strengths of the Constitutional Adviser's Office and the three Group Secretariats will be roughly as follows:

- (i) Constitutional Adviser's Office and Union Assembly Secretariat.—
  - (1) Constitutional Adviser; (2) One Secretary; (3) One Liaison Officer; (4) Three Deputy Secretaries; (5) One Under-Secretary who will work as Private Secretary to the Constitutional Adviser; (6) Six Draftsmen; (7) Two Assistant Secretaries; (8) Five Sections each in charge of a Superintendent; (9) Stenographers and Typists; (10) Inferior establishment, i.e. dafties, peons, etc.
- (ii) Section A.—(1) Section Secretary; (2) Six Deputy Secretaries, one for each of the Provinces; (3) One Assistant Secretary; (4) Three Sections; (5) Stenographers and Typists; (6) Inferior establishment.
- (iii) Section B.—(1) Section Secretary; (2) Three Deputy Secretaries, one for each of the Provinces; (3) One Assistant Secretary; (4) Three Sections; (5) Stenographers and Typists; (6) Inferior establishment.
- (iv) Section C.—(1) Section Secretary; (2) Two Deputy Secretaries, one for each of the Provinces; (3) One Assistant Secretary; (4) Three Sections; (5) Stenographers and Typists; (6) Inferior establishment.

### III. FINANCE

7. The entire expenditure in connection with the Union and Group Constituent Assemblies will be met out of Central Revenues. The expenditure will be mainly voted and the Indian Legislative Assembly will have to be approached in due course for the necessary grants.

8. The salaries of the various posts will be as follows :

- (i) Constitutional Adviser.—Sir B. N. Rau, whom it is proposed to appoint as Constitutional Adviser has expressed a desire that his work should be on an honorary basis. He will be given a free furnished house and a conveyance allowance of Rs. 250 p. m.
- (ii) The pay of the posts of the Secretary to the Constitutional Adviser will be Rs. 4,000 p. m. and that of the Secretaries of the Sections will be Rs. 3,000 p. m. The pay of Draftsmen and Liaison Officer will be fixed *ad hoc* on the merits of each case. The other posts will carry the rates of pay and allowances admissible to analogous posts in the Government of India Secretariat.



9. The financial effect of these proposals during 1946-47 will be as follows :

<i>Pay</i>	<i>Rs.</i>
4 Secretaries one @ Rs. 4,000; and 3 @ Rs. 3,000 p.m. = $13,000 \times 8$ =	104,000
1 Liaison Officer & 6 Draftsmen on average pay of Rs. 2,500 p.m. . . . . = $17,500 \times 8$ =	140,000
14 Deputy Secretaries averaging Rs. 1,750 p.m. . . . . = $24,500 \times 8$ =	196,000
1 Under Secretary and 5 Assistant Secretaries @ Rs. 1,000 p.m. . . . . = $6,000 \times 8$ =	48,000
15 Superintendents (600×15) (including P. A. to C. A.) = $9,000 \times 8$ =	72,000
75 Assistants (160×75) . . . . . = $12,000 \times 8$ =	96,000
25 Stenographers (140×25) . . . . . = $3,500 \times 8$ =	28,000
12 Reporters (350×12) . . . . . = $4,200 \times 8$ =	33,600
80 Typists & Clerks (70×80) . . . . . = $5,600 \times 8$ =	44,800
175 Inferior Staff . . . . . =	22,000
	<hr/>
	784,400
	<hr/>

#### *Allowances*

War allowance . . . . .	90,000
Conveyance & house rent allowances . . . . .	35,000
Tour allowances . . . . .	1,00,000
	<hr/>
	2,25,000
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#### *Contingencies*

Telephones (70×240) . . . . .	16,000
Books & Publications . . . . .	9,000
Miscellaneous . . . . .	1,00,000
	<hr/>
	1,25,000
	<hr/>

	Rs.
Pay . . . . .	784,400
Allowances . . . . .	225,000
Contingencies . . . . .	125,000
	<hr/>
	11,34,400

10. The tentative estimates of expenditure in connection with the travelling and other allowances of members and provision for meetings and accommodation are as follows:

	Rs.
Travelling allowance . . . . .	1,40,000
Daily allowance . . . . .	28,80,000
Conveyance allowance . . . . .	4,80,000
	<hr/>
	35,00,000

	Rs.
Cost of alterations to Council Chamber and provision of residential accommodation . . . . .	5,00,000
	<hr/>
TOTAL . . . . .	40,00,000
	<hr/>
SECRETARIAT . . . . .	11,34,400
ASSEMBLY . . . . .	40,00,000
	<hr/>
	51,34,400

11. A new Demand under the Head "Constituent Assembly" will have to be opened and the Secretary to the Union Constituent Assembly will be the officer responsible for the control of expenditure under this Head.

12. The estimate mentioned above represents the present anticipated requirements, and appointments will be made as and when occasion arises. Immediate requirements will be served if the Constitutional Adviser has at his disposal one Secretary, one Deputy Secretary and one Assistant Secretary, together with a nucleus ministerial staff required for convening the first meeting of the Union Constituent Assembly.

13. A plan for alterations to the Library of the Council Chamber in order to make it suitable for holding meetings of the Constituent Assembly and for the provision of seating arrangements is already under preparation; and Finance Department has agreed to the necessary expenditure being incurred, subject to a scrutiny by the Works, Mines and Power Department of the details of the work involved. Finance Department have also agreed to the incurring of the necessary expenditure in connection with the residential accommodation for the members of the Constituent Assembly.

## (VI) LETTER FROM B. N. RAU TO RAJENDRA PRASAD

December 7, 1946

May I, for convenience of reference, put on record what I have already mentioned to you in oral discussion on the subject of the Constitutional Adviser?

The existing position is that there is a Constitutional Adviser and on his staff there are the Secretary of the Assembly, a Deputy Secretary, an Under Secretary and certain other officers. It was further intended that the Secretaries of the Sections, when appointed, should also be on his staff; these, however, have not yet been appointed. The whole organisation is non-political and non-party in character and its services are equally available to every member, irrespective of party or creed. I feel that it is most important that this should continue to be the case. Decisions on all questions will, of course, be by some form of majority of the Assembly. But in order that correct decisions may be reached, it is essential that every member should have all the assistance which the Constitutional Adviser and the Secretariat can render in putting his point of view before the Assembly.

I would also urge that the Constitutional Adviser should be appointed by the Assembly itself. If the appointment of the Constitutional Adviser or the Secretariat is left to the Chairman of each Section to make similar appointments in each Section and co-ordination between the work of the Assembly and the Sections will become almost impossible. It was for these reasons that you tentatively approved of a rule on the following lines:

The Assembly shall appoint a Constitutional Adviser whose advice shall be available to the Assembly and the Sections on all constitutional matters. He shall have such staff, including the Secretary of the Assembly and the Secretaries of the Sections, as he considers necessary to appoint, subject to the approval of the Finance and Establishment Committee.

If, as provided in the rule, the Sections sitting together in the Assembly appoint a Constitutional Adviser for all of them and empower him to set up the whole of the organization, there can be no question of the same Sections sitting separately later setting up separate organizations for the same purposes. Co-ordination would thus be assured.

A point which I did not mention at the time, but would like to mention now, is that if the Constitutional Adviser is to give of his best, he should have complete freedom of action, uninfluenced by party or other considerations.

## (VII) LETTER FROM RAJENDRA PRASAD TO B. N. RAU

December 8, 1946

I received your letter dated the 7th December 1946. There is only one thing which I wish to point out so that there may be no misunderstanding

in future. In the course of conversation that I had with you when you gave me the draft regarding the appointment of Constitutional Adviser I undertook to place the matter before my colleagues and others and I did not tentatively approve of it as indeed I had no authority to do so. I shall of course discuss the point when the occasion arises as promised.

PART THREE  
SUMMONING AND OPENING OF THE CONSTITUENT  
ASSEMBLY



# NOTES AND LETTERS EXCHANGED BETWEEN NEHRU AND B. N. RAU IN REGARD TO THE SUMMONING OF THE CONSTITUENT ASSEMBLY AND ALLIED MATTERS

September 1946

*[B. N. Rau who had been appointed Constitutional Adviser met the Vice-President of the Interim Government, Jawaharlal Nehru, on September 5, 1946, and discussed various matters pertaining to the manner of summoning and the date of the opening of the Constituent Assembly etc. Later he prepared a comprehensive note reviewing the important points mentioned at his meeting with the Vice-President and giving his own views in regard to several important points such as the date of the first meeting of the Constituent Assembly, entry of the members of the public, broadcasting of the proceedings, provision of medical aid to members, appointment of a provisional Chairman and so on. The note was handed over to Nehru on September 7, 1946. The next day Nehru recorded his own observations on the various points raised by B. N. Rau in a note and sent it to Eric Coates, the Secretary of the Cabinet Coordination Committee, hoping that the matter was soon to be considered by the Cabinet. Nehru sent a copy of his note and a separate reply to B. N. Rau on the same day. Writing to B. N. Rau again on September 16, 1946, Nehru said that Monday, December 9, 1946, had been finally fixed as the date for the first meeting of the Constituent Assembly. The texts of the notes by Nehru and B. N. Rau as also of the letters exchanged between them are reproduced below.]*

## (I) B. N. RAU'S NOTE TO NEHRU

September 7, 1946

I SAW THE Vice-President of the Interim Government on 5-9-1946 in order to apprise him of the latest position as regards the Constituent Assembly. The following points were mentioned:

I. No final decision has yet been taken as to the date of the first meeting, but in reply to enquiries from various quarters, I have said that owing to (a) the Interim Government having their hands full with many other important matters, (b) several Provincial Assemblies being in session,

(c) a number of members, including some Provincial Prime Ministers, being common to the Provincial and Constituent Assemblies, (d) the natural desire of all members (except those who might be prohibited by any party mandate) to attend what is likely to be a historic meeting, and (e) the Puja holidays in early October; the first meeting is not likely to be held before the middle of October.

II. The question of admitting the press and the general public to the meetings of the Constituent Assembly awaits decision. For the most part, this is a matter which the Constituent Assembly itself will have to decide. The U. S. A., Canadian and South African Conventions held their sessions *in camera* for reasons fully explained elsewhere (see the "Points of Procedure"); in our case, in view of recent events, considerations of safety will also have to be taken into account. The Constituent Assembly will doubtless decide the question after considering all relevant factors so far as the second and subsequent meetings are concerned; but, as regards the first meeting, the decision will have to be taken by the Interim Government. If the press and the public are to be admitted, we shall have to make arrangements for regulating admission and adopt other precautionary measures. An early decision on this point is therefore needed.

III. There is a proposal to broadcast the proceedings of the inaugural session of the Constituent Assembly. There will probably be no objection to this, even if the session is held *in camera*, since the proceedings of the first meeting are not likely to raise any controversial issues.

IV. The question of appointing a Provisional Chairman has not yet been decided. If it is decided to appoint the oldest member (in accordance with the French and possibly other precedents), Dr. Sachchidananda Sinha (born November 10, 1871) will, on the materials now available, be the member to be appointed. We are trying to prepare a "Who's Who" of all the members of the Constituent Assembly, which, among other details, will give the date of birth of each; it is not yet complete. When it is complete, it will enable us to decide for certain who is the oldest member.

V. The question of providing prompt and adequate medical aid to any members of the Constituent Assembly that may happen to fall ill during the sessions is under consideration. A matter which may be looked into in this connection is whether the American Hospital near the Willingdon Aerodrome, which is reported to be fully equipped but unused at the moment, can be made available. If it is true that the hospital contains accommodation for nearly 200 beds, it will be of use not only to the members of the Constituent Assembly, but also to the general public. The Health Department will doubtless be able to report on this suggestion.

VI. A series of pamphlets is under preparation for the use of the members of the Constituent Assembly. A number of them have already been printed or are in the press; copies of these have been handed over to the Vice-President for his information. Special attention is invited to those



dealing with (1) Points of Procedure, (2) Linguistic Provinces and Regional Arrangements, and (3) Union Subjects. Other pamphlets are in course of preparation. The question which arises here is at what stage the pamphlets may be sent to members.

VII. The question of creating a Reference and Research Section in the Constituent Assembly Secretariat has arisen. Since such a Section will be required in any case, there seems no objection to its being opened immediately in anticipation of the Constituent Assembly's sanction. This will probably mean the appointment of two officers.

Detailed notes in connection with points I, III and VI above are annexed.

#### NOTE ON POINT I

It has apparently been felt in certain quarters that the Constituent Assembly should meet only after the controversy about the "grouping clause" has been laid at rest. There is some misapprehension in this matter and the present note may help towards clearing up the position.

The Cabinet Delegation's statement of May 16, 1946, has not been drafted with the precision of a statute; but it is now being looked upon as a kind of fundamental law and questions of interpretation will doubtless arise from time to time, even apart from the grouping clause. To mention only one, a controversy has already arisen about the precise meaning of the phrase "the member representing Delhi in the Central Legislative Assembly" in the Note under paragraph 19(i). Does this mean the member representing Delhi at the date of the statement, or, does it mean the member representing Delhi for the time being? If it means the latter, Delhi's representative in the Constituent Assembly will change with every change in Delhi's representation in the Central Legislative Assembly. If, on the other hand, the reference is to the member representing Delhi on the date of the statement, he will continue to be Delhi's representative in the Constituent Assembly irrespective of any such change. There may be other words or phrases in the statement requiring interpretation and the Constituent Assembly may wish to prescribe some special procedure for the purpose. It may be mentioned that in the House of Commons in England there is an officer known as the "Speaker's Counsel" whose function it is to assist the Speaker and the House generally in all legal and quasi-judicial questions. On this analogy, the Constituent Assembly may properly set up a special officer or tribunal of its own to assist in deciding questions of interpretation, or, if it thinks fit to go outside and if the Judges of the Federal Court agree, it may refer any questions to the Judges for an advisory opinion.

Turning to the "grouping clause", I feel that one point needs emphasising: the term "Section" as used in the Cabinet Delegation's Statement of May 16 has not the same meaning as the term "Group". For example, according to that statement, the representatives of Bengal and

Assam must sit together in Section 'C', but whether a Group is to be formed is a matter for the Section to decide. What is compulsory under the plan is the sitting together in the Section, but what is not compulsory is the formation of the Group. If the Section decides not to form a Group, there is an end of the matter. But even if the Section decides to form a Group, it will still be open to an unwilling Province to opt out after the first general elections held under the new constitution. To belong to a Section is one thing; to form a Group is quite a different thing. There is no conflict between the provision that gives Provinces freedom to form groups and the provision that compulsorily assigns them to a Section.

I have laboured this point, because it has been the source of much confusion in the past. Even the Cabinet Delegation did not always remember to use the right word : e.g., in paragraph 8 of their statement of May, 25, they said, "The reasons for the *grouping* of the Provinces are well-known and this is an essential feature of the scheme". What they meant by "grouping" here was obviously no more than putting together in a Section. Any doubt on this point has been removed by paragraph 3 of the Viceroy's letter to Maulana Abul Kalam Azad dated June 15, 1946: "I would however point out that the statement of 16th May does not make grouping compulsory. It leaves the decision to the elected representatives of the Provinces concerned sitting together in Sections. The only provision which is made is that the representatives of certain Provinces should meet in Sections so that they can decide whether or not they wish to form Groups. Even when this has been done the individual Provinces are still to have the liberty to opt out of the Group if they so decide."

I venture to suggest that this evening's broadcast affords a good opportunity for removing all the misapprehensions that have gathered round this subject. It might be worth while to accept unreservedly the position that the representatives of the Provinces must sit together in the several Sections for the purpose of settling the Provincial constitutions and deciding whether Groups should be formed. What procedure the Sections will adopt for these purposes will, of course, be left an open question. To illustrate : The representatives of Assam will be free to press all their objections to grouping when sitting in the Section in which they have been placed, and to propose that following the U.S.A. and Canadian precedents, voting within the Section should always be by Provinces. Failing this, they can urge that, at least on the question of forming Groups, such should be the mode of voting, because of the recommendation in the Cabinet Delegation's statement that Provinces should be free to *form groups*—not merely to opt out of a Group after it is formed, but to decide whether to form a Group at all. Failing this also, they can press for a constitutional framework such as the following :

The Provincial constitutions and the Group constitution should be in separate Parts of the constitution Act—say, Part I and Part II

respectively. Part I will come into operation, say, on January 1, 1948; *Part II will not come into operation until the new Assam Legislature elected in accordance with Part I has by resolution accepted Part II.*

Under such a scheme, Assam would be deciding for herself whether to go into the Group under Part II or to opt out of it. There are other alternatives open. But all this relates to *procedure in Section 'C'*—a matter which can be raised after and only after Assam goes into the Section.

As to the actual dates for the first session of the Constituent Assembly, the following alternatives suggest themselves:

1. *Constituent Assembly*: To sit from October 14 to October 22 inclusive and then, if any business remains, adjourn to some date in December.

*Central Legislative Assembly*: To sit from October 28 (October 23 to October 27 being holidays) to November 20/23 according to volume of business.

- II. *Central Legislative Assembly*: To sit from October 14 to November 9.

*Constituent Assembly*: To sit from November 11 to November 19 inclusive and then, if any business remains, adjourn.

Alternative II above would avoid any possible conflict with the Congress session and might for this reason be preferable.

In any case, an early decision regarding the date will be necessary from an administrative point of view. Members of the Assembly will have to be given at least 14 days' notice of the meeting; and the Estate Office, the Caterer etc. will require sufficient notice to enable them to complete the necessary arrangements in time.

*Invitations to the first session of the Assembly*: The form of the invitation and the authority that will issue it will have to be settled. Please see in this connection my letter No. CA/P/46 dated August 15, 1946, to the P.S.V., a copy of which is enclosed.

#### NOTE ON POINT III

We have informally discussed this matter with the officers of the Information and Arts Department and of the All India Radio. If it is decided that the proceedings should be broadcast, the following programme has been suggested:

An eye witness description of the proceedings leading up to the election of the President; covering all the high-lights and including the vivid sound-effects, will be recorded between 11 A.M. and the time of the Presidential address at suitable intervals. The Presidential address will also be recorded.

The description of the principal events of the day stating the time at which they occurred will be edited in the studios, and this, together with

the recording of the Presidential address, which the description will lead up to, will be broadcast from Delhi at 8-30 P.M. the same day, in such a way as to give it all-India coverage.

It is also for consideration whether the first day's proceedings may be filmed. If this is approved, suitable arrangements will be made.

#### NOTE ON POINT VI

These pamphlets fall into two categories : (I) Constitutional Precedents and (II) Select Constitutions of other countries. Under (I), the following have been prepared so far: (1) Points of Procedure, (2) Opting in and Opting out, (3) Linguistic Provinces and Regional Arrangements, (4) Union Subjects (I) and (II), (5) Democratic Executives, (6) Safeguards for Minorities (I) and (II), (7) Protection of Tribal Rights and Interests (I) and (II), and (8) Protection of the rights of Women and Children. Under II, the constitutions of the following countries will be included: (1) Canada, (2) Australia, (3) South Africa, (4) Ireland, (5) Switzerland, (6) U.S.A., (7) U.S.S.R., (8) Leeward Islands, and (9) The Free City of Danzig.

The question for consideration is whether we should send these pamphlets to members now or wait until they arrive here for the first meeting of the Assembly. The advantage in sending these pamphlets now is that the members will have time to study them and prepare themselves for the discussions in the Assembly. On the other hand, there is the danger that some of the suggestions made in certain pamphlets may get into the press and partisan newspapers may start commenting on them, which might produce undesirable results.

#### ENCLOSURE

COPY OF LETTER NO. CA/P/46, DATED AUGUST 15, 1946, FROM THE CONSTITUTIONAL ADVISER TO THE PRIVATE SECRETARY TO H. E. THE VICEROY

In continuation of my letter No. CA/P/3/46, dated August 12, 1946, may I invite attention to the Canadian precedent of 1864 when invitations to the Quebec Conference were issued? The formation of an "Interim Government" makes it possible to adapt the precedent to present Indian conditions.

The letter addressed by the Governor General of Canada on that occasion as well as the Executive Council's minute advising him upon the subject are reproduced in the annexures to this letter. If a similar procedure is to be adopted for the Constituent Assembly, the following steps suggest themselves :

- (a) As soon as possible, after the "Interim Government" is formed, the new Executive Council will advise H.E. as to the date on which the Constituent Assembly is to hold its first meeting and will also request him to cause the necessary invitations to be issued.
- (b) H.E. will then cause the necessary invitations to be issued, making it clear that this action is being taken in conformity with the Council's request. (See second paragraph of Annexure I.)

The details of the Canadian precedent were not available until the day before yesterday when we received a copy of Pope's "Confederation Documents" which we had ordered from Canada. It may offer a basis for discussion in the new circumstances. You have already been apprised of Nehru's original proposal that the invitations should go from the Provisional Chairman of the Constituent Assembly, whom H.E. may appoint on some automatic formula, such as that the oldest member should preside initially. There may be other plans possible. Whatever plan may ultimately be adopted, I suggest that the decision be taken only after full discussion with the "Interim Government" which is about to be formed.

### ANNEXURE I

*Quebec, 23rd September, 1864.*

Sir, I have the honour to transmit a copy of an approved Minute of the Executive Council of Canada respecting the proposal to hold a Conference of Delegates from the Colonies of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland with the Ministers of Canada to consider the question of a Union of these Colonies and to digest a scheme for the practical realisation of the idea which may be submitted as embodying the joint opinions of the Governments of the several Provinces to the Secretary of State for the Colonies with a view to obtaining his sanction for legislation on the subject.

In conformity with the request contained in this Minute I have the honour to invite you to name a deputation to represent your Province in the approaching Conference which will meet at Quebec on the 10th October.

I have, etc.,  
MONCK.

The Lieutenant Governors of Nova Scotia, New Brunswick, Prince Edward Island, and the Governor of Newfoundland.

### ANNEXURE II

COPY OF A REPORT OF A COMMITTEE OF THE HONOURABLE THE EXECUTIVE COUNCIL,  
APPROVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL ON  
SEPTEMBER 23, 1864

The Committee of Council has the honour to inform Your Excellency that the Deputation from the Executive Council who met the Delegates from the Maritime Provinces, at Charlottetown, on the 1st instant, in accordance with the Order in Council of the 29th ultimo, have reported that such Conference duly met, and that the question of a Confederation of the British North American Colonies was discussed at length, and such progress made, that it was thought desirable by the Conference that the subject should be resumed in a formal and official manner under the authority of the Government of the several Provinces.

The committee have therefore the honour to advise and submit for Your Excellency's approval, that the several Governments of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland, be invited to appoint delegates, under the authority of the despatch of the Secretary for the Colonies to the Lieutenant Governor of Nova Scotia, dated 6th July, 1862, and communicated by the Colonial Office to Your Excellency by a despatch of the same date, to confer with the Canadian Government on the subject of a Union or Federation of the British North American Provinces.

The committee beg leave further to recommend that Quebec be selected as the

place, and the 10th October next the time for the meeting, as they have ascertained that such time and place will meet the views and convenience of the several Governments.

(II) NEHRU'S NOTE TO ERIC COATES, SECRETARY, CABINET  
CO-ORDINATION COMMITTEE (COPY TO B. N. RAU)  
September 8, 1946

Sir B. N. Rau has sent me a note on various points arising in regard to the Constituent Assembly. (This note apparently bears no signature and is undated.)

2. The note draws attention to various points for early decision. Sir B. N. Rau has quoted certain precedents which might help us in coming to decisions.

3. The Constituent Assembly will itself make its own rules of procedure. At present all that has got to be done is to arrange for preliminary steps to be taken for the Assembly to meet.

4. *Date*: The first point is about the date of the Assembly. It is obviously desirable for the Assembly to meet in a peaceful atmosphere when all its members are taking part. Unfortunately, the Muslim League has for the present decided not to participate in the Constituent Assembly. Whether this decision will be revised or not I cannot say. It should be our attempt to induce all the members of the Constituent Assembly to take part in it. In my broadcast last night I made some such attempt and tried to make it clear that our conception of the Constituent Assembly was not one where different groups came into constant conflict with each other, but rather one where a spirit of co-operation prevailed and there was every attempt to get mutually agreed decisions. I further made it clear that we had accepted sections. There had been some confusion about sections and groups. Sir B. N. Rau has pointed this out. It is the sections that are compulsory and then the section decides in regard to the groups.

5. While we should invite and make easy for all to join the Constituent Assembly, it is obvious that the Assembly cannot wait indefinitely because some of its members are not prepared to participate in it. That will be a fatal mistake and would put an end to the very conception of the Constituent Assembly. Therefore, it becomes essential for a proper date to be fixed for the meeting of the Constituent Assembly. That date cannot be too far off for various obvious reasons. It is necessary also to fix the date, because other dates depend upon it, such as the date of the meeting of the Central Legislature. Sir B. N. Rau has suggested two possible dates for the Constituent Assembly, one from October 14th to October 22nd, the other from November 11th to November 19th. I am definitely of opinion that the earlier date should be preferred and that the Central Legislature should meet after the first session of the Constituent Assembly.

It seems to me that the nine days allotted for the C.A. by Sir B. N. Rau are hardly enough. We should have a clear fortnight for it. After that it may adjourn and its committees may start working.

6. It will be necessary for us to fix the date of the Central Legislative Assembly. In fixing this we shall have to bear in mind various important holidays like the Poojas, Moharrum, Divali, etc. Also, the annual session of the National Congress has been fixed for the 21st of November. This means that the week beginning from the 18th November will be taken up by the Congress session.

7. *Admission of press and public*: All we have to decide is what should be done on the first day of the C.A., because subsequent decisions will be taken by the C.A. itself. I think that on this first day the Press should be admitted as well as a limited number of the general public. Accommodation being very limited, not many people can be so admitted. Sir B. N. Rau refers to considerations of safety. Steps should be taken to provide for this.

8. *Broadcasting*: I see no objection to broadcasting of the proceedings of the inaugural session of the C.A. Subsequent sessions are likely to be *in camera*.

9. *Provisional Chairman*: It appears to be more or less agreed that the provisional Chairman should be the oldest member of the C.A. Probably Dr. Sachchidananda Sinha is the oldest member and he will make an excellent Chairman.

10. *Medical Aid*: This question requires no decision of policy. Obviously some arrangements for medical aid should be made and if the American hospital near the Willingdon Aerodrome is available that would suit our purpose very well and would also be useful to the general public. The Public Health Department might consider this matter and report.

11. *Sir B. N. Rau's pamphlets*: Sir B. N. Rau has prepared a number of leaflets and pamphlets on the various issues before the C.A. I have read most of them and I find them very helpful. I think they should certainly be printed in convenient book form all together and sent to all the members of the Constituent Assembly as soon as they are ready. This will give them time to study them before the meeting of the C.A. Sir B. N. Rau is apprehensive of publicity given to these pamphlets. I do not think it matters very much if any of them are published in the newspapers, though I should like to avoid this publicity. They may be issued to members as 'confidential' documents, not intended for publication. Obviously, they cannot remain private and parts of them may appear in the press. I am quite prepared to take the risk. Apparently the pamphlets have been written very objectively and not with a view to support any particular thesis.

12. *Reference and Research Section*: I think such a section should be immediately constituted. Of course, the Constituent Assembly itself will finally decide about this matter, as about other matters. But it is desirable

that the section should begin functioning and collect material before the C.A. meets.

13. *Convening of the C. A.*: Two proposals have been made: (i) that the temporary Chairman should convene the C.A.; and (ii) that the Viceroy should convene it on the advice of the Interim Government. In doing so it would be clearly stated that the Viceroy was acting at the request of the Interim Government. I see no objection to either of these proposals.

14. Final decisions on these matters will have to be made at a formal Cabinet meeting. I suggest, however, that the necessary papers might be circulated among members of the Cabinet who will first consider them informally and then a formal reference can be made to the full Cabinet.

A copy of this note might be sent to Sir B. N. Rau.

### (III) NEHRU'S LETTER TO B. N. RAU

September 8, 1946

I have today dictated a hurried note about the Constituent Assembly and tried to answer some of the questions you have put. A copy of this note will be sent to you. Nobody seems to know where the original should go. I am, therefore, sending it to Sir Eric Coates, the Secretary of the Cabinet Coordination Committee. I hope the matter will be put up soon before the Cabinet for decision.

I have read quite a number of your notes and pamphlets. I think they are very useful indeed and should certainly be produced in some kind of a book form and sent to members before the Assembly meets. It does not much matter if some people do not like the examples you have given. You should ask the members to treat your book as confidential and not meant for publication. How far you will succeed is another matter.

May I keep all these pamphlets with me; or do you want them back ?

### (IV) B. N. RAU'S LETTER TO NEHRU

September 9, 1946

Many thanks for your letter of September 8. I have already received a copy of your note on the Constituent Assembly and Coates's office has asked me for 25 copies of my original note to you. We shall send these and also 20 sets of the pamphlets in the course of tomorrow for the use of the Members of the Cabinet.

I am glad that you have found the pamphlets useful and you can certainly keep them. When they have been bound in book form, I shall send you a copy.



(V) NEHRU'S LETTER TO B. N. RAU  
September 16, 1946

After giving the matter full consideration we have decided to have a meeting of the Central Legislative Assembly prior to the Constituent Assembly meeting. We are fixing Monday the 28th October for the beginning of the Legislative Assembly Session and Monday the 9th December for the Constituent Assembly. We hope that this first Session of the Constituent Assembly will end before Xmas.

This date for the Constituent Assembly can be announced. But it is not necessary at this stage to convene it formally or to issue invitations to the elected Members. This matter can be considered early in November or thereabouts. Meanwhile I hope that you will send your pamphlets and other information to the elected Members.

CORRESPONDENCE BETWEEN B. N. RAU AND  
G. E. B. ABELL IN REGARD TO THE MANNER  
OF SUMMONING THE CONSTITUENT  
ASSEMBLY AND THE FORM OF INVITATION  
September-November, 1946

*[In the beginning there was some difference of opinion between Viceroy Wavell and Vice-President Nehru in regard to the manner of summoning the Constituent Assembly and the form in which the invitation to the members of the Constituent Assembly for attending the first meeting should issue. The controversy was finally settled at a meeting between the Viceroy and the Vice-President. H. V. R. Iengar, the Secretary of the Constituent Assembly recorded on November 16, 1946 : "The form of the invitation as settled by H.E. has been accepted by V. P." On November 20, 1946, invitations signed by the Secretary were issued to all the members of the Constituent Assembly. The relevant correspondence between G. E. B. Abell, Private Secretary to the Viceroy and B. N. Rau and the text of the invitation to the members to attend the first meeting are reproduced below.]*

(I) LETTER FROM G. E. B. ABELL TO B. N. RAU  
September 17, 1946

I EXPECT YOU have a copy of Pandit Jawaharlal Nehru's note about certain points in connection with the Constituent Assembly which was circulated to members of the Cabinet. I enclose a copy of the note for ready reference.

2. It has been agreed provisionally that the date for summoning the Constituent Assembly should be the 9th December and after discussion with Pandit Nehru H. E. has agreed to the proposals in paragraphs 7, 8, 9, 10, 11 and 12 of his note. As regards the convening of the Constituent Assembly this is a matter for H.E. himself and he has informed Pandit Jawaharlal Nehru that he proposes that the invitation should be in the form attached and should be issued by the Secretary of the Constituent Assembly at the proper time. H.E.'s orders should of course be taken before the invitations are actually issued. The proposal that the invita-

tion should issue from the Secretary of the Constituent Assembly was made by the Secretary of State himself. I think you were unwell at the time when the draft was discussed by Menon with Sir George Spence, but if you have any comments on its form would you be good enough to let me know? H.E. has shown this draft to Pandit Jawaharlal Nehru.

(II) B. N. RAU'S LETTER TO ABELL

November 6, 1946

Please refer to your D.O. letter No. 592/79 of the 17th September regarding the forthcoming session of the Constituent Assembly which has been provisionally fixed for the 9th December. A form of the invitation proposed by H.E. was annexed to your letter, but it appears from a note of Nehru's dated the 20th September that there has been no final decision in the matter. The note runs thus :

In regard to the method of convening the Constituent Assembly there has so far been no final settlement, although I understand that a draft has been communicated to the Secretary of State. As the Constituent Assembly is not meeting till December, there is no immediate necessity for invitations to be issued. This matter can be further considered later.

Presumably the controversy is about the words "under H.E.'s instructions" in the draft form of the invitation. How would it do, if, instead of the words "I am now, *under H.E.'s instructions*, to request you", we used the words "I am now *directed* to request you"? From whom the direction has emanated, whether from H.E. on his own initiative or from H.E. acting on the advice of the Cabinet or otherwise, is a domestic matter with which the invitee has no concern. We may also omit from the draft the words "as a member of the Constituent Assembly"; they are not strictly necessary and may be embarrassing in respect of persons whose title to membership is in doubt. ...

Nehru is not here at the moment and I have therefore not been able to consult him on these suggestions.

If the suggestions are accepted, the invitation will take the form—

In pursuance of paragraph 21 of the statement made by the Cabinet Mission and His Excellency the Viceroy on the 16th May, 1946, the Provincial Legislatures have elected their representatives to the Constituent Assembly. I am now directed to request you to attend its first meeting which will be held at 11 A. M. on the 9th December, 1946, at the Constituent Assembly Hall, in the Council House, New Delhi.

(III) ABELL'S REPLY TO B. N. RAU

November 9, 1946

Thank you for your letter No. CA/6/Cons/46 of the 6th November which

I have shown to His Excellency. His Excellency thinks that the form of invitation already communicated to the Secretary of State should stand. So far as His Excellency knows there is no controversy about it.

(IV) ABELL'S LETTER TO B. N. RAU

November 20, 1946

H.E. asks me to let you know that he approves the issue now of the invitations for the Constituent Assembly which will meet on 9th December.

(V) INVITATION TO MEMBERS TO ATTEND THE FIRST  
MEETING OF THE CONSTITUENT ASSEMBLY  
ISSUED BY THE SECRETARY OF THE  
CONSTITUENT ASSEMBLY

November 20, 1946

In pursuance of paragraph 21 of the statement made by the Cabinet Delegation and His Excellency the Viceroy on the 16th May, 1946, the Provincial Legislatures have elected their representatives to the Constituent Assembly. I am now, under His Excellency the Viceroy's instructions, to request you as a member of the Constituent Assembly to attend its first meeting which will be held at 11 A. M. on the 9th December, 1946 at the Constituent Assembly Chamber in the Council House, New Delhi.

## VALIDITY OF CONSTITUENT ASSEMBLY MEETINGS IN THE ABSENCE OF LEAGUE MEMBERS

November-December, 1946

*[In view of the Muslim League's firm decision to boycott the Constituent Assembly, a question arose whether the Assembly could validly function in the absence of the League representatives. B. N. Rau, writing to Jawaharlal Nehru towards the end of November 1946 expressed the view that non-participation by the League might possibly render the meetings of the Assembly open to challenge. On the other hand, in a note addressed to Rajendra Prasad, dated December 8, K. M. Munshi maintained that the Constituent Assembly, being an organ of the sovereign people, was fully entitled to function notwithstanding that a group of members chose to keep away from it. The texts of B. N. Rau's letter and Munshi's note are reproduced below.]*

### (I) B. N. RAU'S VIEWS

I HAVE BEEN CONSIDERING the possible effects of the non-participation of the Muslim League upon the Cabinet Mission's long-term plan. It will be noticed that the plan as set in the statement of the 16th May and subsequent documents does not prescribe any quorum for the meetings either of the Sections or of the Union Constituent Assembly. Obviously this cannot mean that even half a dozen members can get together and discharge the functions of the Constituent Assembly or its Sections. We shall have to discover some kind of criterion by which to judge whether the meetings are properly constituted or not.

In the case of corporations, the rule as stated in Halsbury (*Halsbury's Laws of England*, Hailsham Edition, Vol. VIII, p. 54) is—

The acts of a corporation, other than a trading corporation, are those of the major part of the corporators, corporately assembled. In other words, in the absence of special custom or of special provision in the constitution, the major part must be present at the meeting, and of that major part there must be a majority in favour of the act or resolution contemplated.\*\*\* Where a corporation is composed of several select bodies, the general rule is that a majority of each select body must be present at a corporate

meeting ; but this rule will not be applied, in the absence of express direction in the constitution, if such application would lead to an absurdity or an impossibility. Thus, where such a select body is composed of four members and two of them happen to vacate their offices at the same time, an election will be valid although only the remaining two are present at it.

The question now is whether the above rule can be applied to the meetings of the Constituent Assembly and its Sections. If we apply it to the Sections, the result will be that as the abstention of the League reduces Sections B and C to less than half their strength, a valid meeting of either becomes impossible. It will be remembered that under the Cabinet Mission's plan the Union constitution is to be settled only after the several Sections have met and settled the Provincial constitutions and the Group constitutions if any. If two of the three Sections cannot meet at all, the settling of the Union constitution will be indefinitely delayed. This is one aspect of the matter.

There is another aspect to be considered. If the several provincial contingents or even the Sections are considered to be "select bodies" or "definite integral parts" of the Union Constituent Assembly, the rule will make even a preliminary meeting of the Union Constituent Assembly impossible, because the Bengal and Punjab contingents as also Sections B and C will be reduced to less than half their strength by the League's non-cooperation. I do not mention Sind, because the Sind contingent is only 4 strong and the application of the rule would lead to an absurdity. Even if we look upon the General, Muslim and Sikh representatives as constituting "select bodies" in the Union Constituent Assembly, the same result would follow, because only about half a dozen Muslim representatives out of a total of about 80 would be present.

It is possible that the League might raise this point in London and might ask that the point be referred to the Judges of the Federal Court for an advisory opinion. As the question raised relates to the validity of holding a meeting of the Union Constituent Assembly even at the preliminary session, the League might ask that the meeting be postponed pending the receipt of the opinion of the Judges of the Federal Court. I think I should bring these possibilities to your notice at once although they may not materialise.

## (II) K. M. MUNSHI'S VIEWS

1. There are two questions to be considered: First, whether the Constituent Assembly can function if certain members or a group of members, say the members of the Muslim League do not attend its meeting. Second, whether the Constituent Assembly can function if one or more members do not attend before the rule as to quorum is framed.

2. In order to consider the first question, the nature of the Constituent Assembly, as defined by the Cabinet Statement, has to be considered. By Clause 17 it is proposed to set up "A constitution-making machinery",

which as Clause 18 clearly says, is to be based on the fairest and most practical substitute for "as broad-based and accurate a representation of the whole population as is possible" by adopting the method of election based on adult franchise. No party as such is recognised as being entitled to participate in the Assembly.

The Constituent Assembly, therefore, is clearly a representative of the population of India as a whole, and not of a conference of representatives of certain groups.

3. The 'method' stated in Clause 18, is a subsidiary process whereby this representation is to be achieved. It first divides the whole population province-wise, giving to each province the number of seats proportionate to its population. This carries forward the idea that the province-wise distribution of the 'whole population' is a matter of convenience. The second step of dividing provincial allocation of seats community-wise according to population is also one of the methods by which an accurate representation of the whole population at the time of election can be achieved. This indicates that the parts of the Legislature are in the nature of constituencies or electoral colleges for electing representatives from a province to the assemblies and are not independent sections of a community sending delegates to negotiate with delegates of other communities.

4. The Constituent Assembly is, therefore, not a body of delegates representing different communities, but an organ of the sovereign people, which by virtue of its being elected by the sovereign people, inherits a part of that sovereign power so far as constitution-making is concerned. The idea that such an Assembly is a meeting ground of delegates representing different groups come to negotiate between themselves, negatives the very concept of Constituent Assembly.

✓5. In my opinion, therefore, the withdrawal of a member or members—even of a whole group of members—cannot prevent the Constituent Assembly as such from discharging its duties.

6. The second question is, whether a body like the Constituent Assembly before it makes its own rules deciding a quorum, has the right to take decisions in the absence of one or more of its members.

7. In this connection it becomes necessary to examine the meaning of the word 'quorum'. Quorum is defined in Wharton Law Lexicon as "number of members of an administrative or judicial body whose presence is necessary for the acts of that body to be valid". In this connection, it is to be remembered that the word 'quorum' is derived from the formula '*Quorum aliquem vestrum* A B & C' used in the 15th & 16th century in England, whereby the Justices of the Peace were appointed for certain counties. On account of this formula, the Justices of the Peace came to be called justices of the quorum. By this formula, the Justices were appointed, jointly and severally, to keep the peace of the county named; and any two or more of them to enquire and determine felonies and other mis-demeanours in

which some number of justices or one of them were directed to be always included.

The word, therefore, had its origin in connection with the constitution of judicial bodies. Its meaning was later extended to bodies which administered or managed affairs on behalf of a larger body of persons. "When a body is entrusted with powers of management so that the members are co-agents with no stipulation that any specified number shall form quorum, they must all join in exercising the authority." [*Brown vs. Andrew* (1849) 48 L.J.Q.B. p. 153; Re: *Liverpool Household Stores Association Ltd.* (1890) 59 L.J. Ch. 616.] But this principle cannot be extended to meetings of assemblies which do not possess either judicial powers, or which are not merely agents.

8. The Cabinet Mission's statement has no provision that the Constituent Assembly must act unanimously or by quorum. It would destroy the whole fabric of the assembly if the absence of a single member reduces it to impotency. By its very nature, the Constituent Assembly must function in spite of the absence of some members before it forms its own rules as to quorum.

9. The records of the Convention made to draft a Constitution for the United States of America shows not only that the Constituent Assembly can function in the absence of some members before it fixes its quorum, but its later history shows that the constitution made by it can begin to function even if some of the States choose to stay out at the time. As a matter of fact, the Draft Constitution of the United States of America was signed only by 39 delegates out of 55 on the 17th September, 1877.

10. The Premiers' Conference which drew up the Constitution of Australia did not draw it up unanimously. New South Wales, Queensland, South Australia, Victoria and Tasmania on a referendum accepted the proposals of the Premiers' Conference, but Western Australia stood out, as it wanted special terms. Provision was therefore made by clause 3 of the Preamble of the Constitution Act for the admission of Western Australia at a later stage. By 1900 Western Australia withdrew most of its demands. The agreement between Western Australia and other provinces was reached in a Conference at London much later, and after a referendum on July 19, 1900, it was admitted into the Commonwealth.

11. Most of the constitutions make provision for admission of new States mainly for the reason that one or the other of the States decide to stay away from the constitution as decided upon by the constitution-making body.

12. These precedents establish that the Constituent Assembly is entitled to function in the absence of one or more of its members and also to take decisions even if one or more of the members decide not to come in. In my opinion, therefore, the Constituent Assembly can function by a majority of its members present, till a quorum is fixed by its own rules.



INAUGURAL ADDRESS BY SACHCHIDANANDA  
SINHA, PROVISIONAL CHAIRMAN, ON THE  
OPENING DAY OF THE CONSTITUENT  
ASSEMBLY  
December 9, 1946

*[As scheduled, the first meeting of the Constituent Assembly duly opened on Monday, December 9, 1946, at 11 A.M. The first item on the agenda was that of the election of the temporary Chairman. Accordingly, at the outset, J. B. Kripalani, then Congress President, stood up to request Sachchidananda Sinha—the oldest member—to take the Chair as temporary Chairman. Sinha, conducted by Kripalani, occupied the Chair amidst acclamation and after reading the various goodwill messages received from abroad and referring to an election petition, he delivered his inaugural address. The texts of Kripalani's brief speech, goodwill messages from abroad and Sinha's address are reproduced below.]*

(I) J. B. KRIPALANI'S SPEECH

FRIENDS, at this auspicious occasion of historical importance I invite, on your behalf, Dr. Sachchidananda Sinha to be the temporary Chairman of this Assembly. Dr. Sinha needs no introduction. You all know him. He is not only the oldest among us but also the oldest parliamentarian in India, having served, as you know, as a member of the Imperial Legislative Council from 1910 to 1920. He entered the Central Legislative Assembly in 1921 not only as one of its members, but its Deputy President also. He was then entrusted with the portfolio of an Executive Councillor and Finance Member of the Government of Bihar and Orissa. So far as I remember Dr. Sinha was the first Indian who was ever appointed as a Finance Member of a Province. He has a particular taste for education having been Vice-Chancellor of the Patna University for eight years. Over and above all this, Dr. Sinha is the oldest Congressman among us. Up till 1920 he was a member of the Congress, being at one time its Secretary.

After the year 1920 when we started on a new way to gain freedom he parted company with us. He, however, never wholly left us. He has

always been helping us. He never joined any other organization and his sympathies were ever with us. Such a person is entitled to be the temporary Chairman of this Assembly. His work is brief but it is all the same most important. It is inaugurating the proceeding of this House. As we begin every work with Divine blessings we request Dr. Sinha to invoke these blessings so that our work may proceed smoothly. Now, I once more, on your behalf, call upon Dr. Sinha to take the Chair.\*

## (II) GOODWILL MESSAGES FROM ABROAD

### *(a) From the United States*

With the approach of December 9, I extend to you as Provisional Chairman of the Constituent Assembly, and through you to the Indian people, the sincere good wishes of the United States Government and of the people of the United States for a successful conclusion of the great task you are about to undertake. India has a great contribution to make to the peace, stability, and cultural advancement of mankind, and your deliberations will be watched with deep interest and hope by freedom-loving people throughout the entire world.

### *(b) From the Republic of China*

On the auspicious occasion of the opening of the Indian Constituent Assembly I have the honour to extend to Your Excellency in the name of the National Government of China my heartiest congratulations. I sincerely hope that your great Assembly will succeed in laying a solid foundation for a democratic and prosperous India.

### *(c) From Australia*

Australia has watched with keen interest and sympathy the course of events which have given the people of India their rightful place in the community of nations. The Australian Government, therefore, greets the opening of the Constituent Assembly as an outward sign of a new era for India and offers the delegates of the Constituent Assembly their best wishes for success in their task.

## (III) CHAIRMAN'S INAUGURAL ADDRESS

Hon'ble Members of the First Indian Constituent Assembly:

I am deeply beholden to you for your having agreed to accept me as the first President of your Constituent Assembly, which will enable me to

\*English translation of Hindustani speech.

assist you in transacting the preliminary business before the House—such as the election of a permanent President, the framing of the Rules of Business, the appointment of various committees, and settling the question of giving publicity to, or keeping confidential, your proceedings—which will ultimately lead you to crown your labours by formulating a suitable and stable constitution for an Independent India. In expressing my sense of appreciation of your great kindness, I cannot conceal from myself that I feel—comparing small things with great—that I am, on the present occasion in the position in which Lord Palmerston found himself when Queen Victoria offered him the highest Order of Chivalry, namely, the Knighthood of the Garter. In accepting the Queen's offer, Lord Palmerston wrote to a friend as follows : “I have gratefully accepted Her Majesty's gracious offer as, thank God, there is no question of any damned merit about the honour conferred on me.”

I say I find myself more or less in the same position, for you have agreed to accept me as your President on the sole ground that I am, in age, the senior-most member of this Assembly. Whatever the ground, however, on which you have chosen to have me as your first President, I am nonetheless profoundly grateful to you. I have had, in my fairly long life, several honours conferred on me in recognition of my services as a humble worker in public interest, but I assure you that I regard your mark of favour as a signal honour, which I shall cherish throughout the rest of my life.

On this historic and memorable occasion, you will not grudge, I am sure, if I venture to address to you some observations on certain aspects of what is called a Constituent Assembly. This political method of devising a constitution for a country has not been known to our fellow-subjects in Britain, for the simple reason, that under the British Constitution, there is no such thing as a constituent law, it being a cherished privilege of the British Parliament, as the sole sovereign authority, to make and unmake all laws, including the constitutional law of the country. As such, we have to look to countries other than Britain to be able to form a correct estimate of the position of a Constituent Assembly. In Europe, the oldest Republic, that of Switzerland, has not had a Constituent Law, in the ordinary sense of that term, for it came into existence, on a much smaller scale than it now exists, due to historic causes and accidents, several centuries back. Nevertheless, the present constitutional system of Switzerland has several notable and instructive features, which have strongly been recommended by qualified authorities to Indian constitution-makers, and I have no doubt that this great Assembly will study carefully the Swiss Constitution, and try to utilize it to the best advantage in the interest of preparing a suitable constitution for a free and independent India.

The only other State in Europe, to the constitution of which we could

turn with some advantage, is that of France, the first Constituent Assembly of which (called "The French National Assembly") was convoked in 1789, after the French Revolution had succeeded in overthrowing the French monarchy. But the French Republican system of Government had been changed since then, from time to time, and is even now, more or less, in the melting pot. Though, therefore, you may not be able to derive as much advantage from a study of the French system of constituent law as that of the Swiss, that is no reason why you should not seek to derive what advantage you can in the preparation of the task before you, by a study of it.

As a matter of fact, the French constitution-makers, who met in 1789 at the first Constituent Assembly of their country, were themselves largely influenced by the work done but a couple of years earlier, in 1787, by the historic Constitutional Convention held at Philadelphia by the American constitution-makers, for their country. Having thrown off their allegiance to the British King in Parliament, they met and drew up what had been regarded, and justly so, as the soundest, and most practical and workable republican constitution in existence. It is this great constitution, which had been naturally taken as the model for all subsequent constitutions not only of France, but also of the self-governing Dominions of the British Commonwealth, like Canada, Australia, and South Africa; and I have no doubt that you will also, in the nature of things, pay in the course of your work, greater attention to the provisions of the American Constitution than to those of any other.

I have referred above to the self-governing constitutions of the great Dominions of the British Commonwealth being based on, to a large extent, if not actually derived from, the American constitutional system. The first to benefit by the American system was Canada, the historic Convention of which country, for drawing up a self-governing constitution, met in 1864, at Quebec. This Convention drew up the Canadian Constitution, which was subsequently embodied in what is still on the Statute Book as the British North American Act, passed by the British Parliament in 1867. You may be interested to hear that the Quebec Convention consisted of only 33 delegates from all the provinces of Canada, and that Convention of 33 representatives issued as many as 74 resolutions, which were afterwards duly incorporated *in toto* in the British North American Act, under the provisions of which the first self-governing Dominion of the British Commonwealth of Canada, came into existence, in 1867. The British Parliament accepted the Canadian Convention's scheme in its entirety, except for making only one drafting amendment. I hope and pray, Hon'ble Members, that your labours may be crowned with a similar success.

The American constitutional system was more or less adopted in the schemes prepared for framing the Constitutions of Australia and South Africa, which shows that the results achieved by the American Convention,

held at Philadelphia in 1787, had been accepted by the world as a model for framing independent federal constitutions for various countries. It is for these reasons that I have felt justified in inviting your attention to the American system of constituent and constitutional law as one which should be carefully studied by you—not necessarily for wholesale adoption, but for the judicious adaptation of its provisions to the necessities and requirements of your own country, with such modifications as may be necessary or essential owing to the peculiar conditions of our social, economic and political life. I have done so as according to Munro—a standard authority on the subject—the American Constitution is based on “a series of agreements as well as a series of compromises”. I may venture to add as a result of my long experience of public life for now nearly half a century, that reasonable agreements and judicious compromises are nowhere more called for than in framing a constitution for a country like India.

In commending to you for your careful consideration and acceptance, with reasonable agreements and judicious compromises, the fundamental principles of the American system, I cannot do better than quote the striking observations on the subject of the greatest British authority, namely Viscount Bryce, who in his monumental work, called *The American Commonwealth*, writes as follows, putting in a very few lines the substance of the fundamental principles of the American Constitution :

Its central or national Government is not a mere league, for it does not wholly depend on the component communities which we call the States. It is itself a Commonwealth, as well as a union of Commonwealths, because it claims directly the obedience of every citizen, and acts immediately upon him through its courts and executive officers. Still less are the minor communities, the States, mere sub-divisions of the Union, mere creatures of the National Government, like the counties of England, or the Departments of France. They have over their citizens an authority which is their own, and not delegated by the Central Government.

It may possibly be that in some such scheme, skilfully adapted to our own requirements, a satisfactory solution may be found for a constitution for an Independent India, which may satisfy the reasonable expectations and legitimate aspirations of almost all the leading political parties in the country. Having quoted the greatest British authority on the great, inherent, merits of the American Constitution, you will, I hope, bear with me a fairly long quotation from the greatest American Jurist, Joseph Story. In concluding his celebrated book, called *Commentaries on the Constitution of the United States*, he made certain striking and inspiring observations which I present to you as worthy of your attention. Said Story :

Let the American youth never forget, that they possess (in their constitution) a noble inheritance, bought by the toils, and sufferings, and blood of their ancestors; and capable, if wisely improved, and faithfully guarded

of transmitting, to their latest posterity all the substantial blessings of life, the peaceful enjoyment of liberty, property, religion, and independence. The structure has been erected by architects of consummate skill and fidelity; its foundations are solid; its compartments are beautiful as well as useful; its arrangements are full of wisdom and order; and its defences are impregnable from without. It has been reared for immortality, if the work of man may justly aspire to such a title. It may, nevertheless, perish in an hour by the folly, or corruption, or negligence of its only keepers, THE PEOPLE. Republics are created—*these are the words which I commend to you for your consideration*—by the virtue, public spirit, and intelligence of the citizens. They fall, when the wise are banished from the public councils, because they dare to be honest, and the profligate are rewarded, because they flatter the people, in order to betray them.

To quote yet one more leading authority on the almost ideal Constitution of America, James (at one time Solicitor-General of the United States) says in his highly instructive book, called, *The Constitution of the United States—Yesterday, Today, and Tomorrow*—

Constitutions, as a governmental panacea, have come and gone; but it can be said of the American Constitution, paraphrasing the noble tribute of Dr. Johnson to the immortal fame of Shakespeare, that the stream of time which has washed away the dissoluble fabric of many other paper constitutions, has left almost untouched its adamant strength. Excepting the first ten amendments, which were virtually a part of the original charter, only nine others have been adopted in more than one hundred and thirty years. What other form of government has better stood the test of time?

Hon'ble Members, my prayer is that the constitution that you are going to plan may similarly be reared for 'immortality', if the work of man may justly aspire to such a title, and it may be a structure of 'adamantine strength', which will outlast and overcome all present and future destructive forces.

Having invited your attention to some aspects of the question of constitution-making in Europe and America, I may now profitably turn to some aspects of the question in our own country. The first definite reference to a Constituent Assembly (though not under those words or under that particular name) I have found in a statement of Mahatma Gandhi, made so far back as 1922. Mahatmaji wrote:

*Swaraj* will not be a free gift of the British Parliament. It will be a declaration of India's full self-expression, expressed through an Act of Parliament. But it will be merely a courteous ratification of the declared wish of the people of India. The ratification will be a treaty to which Britain will be a party. The British Parliament, when the settlement comes, will ratify the wishes of the people of India as expressed through the freely chosen representatives.

The demand made by Mahatma Gandhi for a Constituent Assembly, composed of the "freely chosen representatives" of the people of India, was affirmed, from time to time, by various public bodies and political leaders,

but it was not till May, 1934, that the Swaraj Party, which was then formed at Ranchi (in Bihar), formulated a scheme in which the following resolution was included:

This Conference claims for India the right of self-determination, and the only method of applying that principle is to convene a Constituent Assembly, representative of all sections of the Indian people, to frame an acceptable constitution.

The policy embodied in this resolution was approved by the All-India Congress Committee, which met at Patna—the capital of Bihar—a few days later, in May, 1934; and it was thus that the scheme of a Constituent Assembly for framing the Indian Constitution was officially adopted by the Indian National Congress.

The above resolution was confirmed at the session of the Congress held at Faizpur in December 1936. The confirming resolution declared:

The Congress stands for a genuine democratic State in India where political power has been transferred to the people, as a whole, and the Government is under their effective control. Such a State can only come into existence through a Constituent Assembly having the power to determine finally the constitution of the country.

In November, 1939, the Congress Working Committee adopted a resolution which declared that : “Recognition of India’s independence and the right of her people to frame their constitution through a Constituent Assembly is essential.”

I may add that in the resolutions from which I have quoted above (those adopted at the Congress Working Committee of November 1939, and at the Faizpur session of the Congress of 1936) it was declared that the Constituent Assembly should be elected on the basis of adult suffrage. Since the Congress gave a lead on the subject in 1934, the idea of a Constituent Assembly had come to prevail largely as an article of faith in almost all the politically-minded classes in the country.

But until the adoption of the resolution on Pakistan, in March 1940, by the Muslim League, that political organization had not favoured the idea of a Constituent Assembly as a proper and suitable method for framing a constitution for this country. After the adoption of that resolution, however, the attitude of the Muslim League seems to have undergone a change in favour of the idea of a Constituent Assembly—one for the areas claimed by the League for a separate Muslim State, and the other for the rest of India. Thus it may be stated that the idea of a Constituent Assembly, as the only direct means for the framing of a constitution in this country, came to be entertained and accepted by the two major political parties in 1940, with this difference that while the Congress desired one Constituent Assembly for India, as a whole, the Muslim League wanted two Constituent Assemblies, in accordance with its demand for two separate States in the country. Anyway, whether one or two, the idea of a Constituent Assembly being the proper method for

the framing of a constitution had clearly dawned by that time on public consciousness in the country, and it was with reference to that great mental upheaval that Pandit Jawaharlal Nehru declared that "it means a nation on the move, fashioning for itself a new Government of its own making through their elected representatives."

It remains to add that the conception of a Constituent Assembly as the most appropriate method for framing the Constitution of India had also found favour with the members of the Sapru Committee in the report of which, issued last year (1945), is formulated a definite scheme for the composition of a Constituent Assembly. We are meeting, however, in this Assembly today, under the scheme propounded by the British Cabinet Mission, which, though differing from the suggestions made on the subject by the Congress, the League, and other political organizations, had devised a scheme which though not by all, had been accepted by many political parties, and also by large sections of the politically-minded classes in the country, but also by those not belonging to any political party, as one well worth giving a trial, with a view to end the political deadlock, which had obtained for now many years past, and frustrated our aims and aspirations. I have no desire to go further into the merits of the British Cabinet Mission's scheme as that might lead me to trespass on controversial ground, which I have no desire to traverse on the present occasion. I am aware that some parts of the scheme, propounded by the British Cabinet Mission, have been the subject of acute controversies between some of the political parties amongst us, and I do not want, therefore, to rush in where even political angels might well fear to tread.

Hon'ble Members, I fear I have trespassed long on your patience, and should now bring my remarks to a close. My only justification for having detained you so long is the uniqueness of this great and memorable occasion in the history of India, the enthusiasm with which this Constituent Assembly had been welcomed by large classes of people in this country, the keen interest which matters relating to it had evoked amongst various communities, and the prospect which it holds out for the final settlement of the problem of all problems, and the issue of all issues, namely, the political independence of India, and her economic freedom. I wish your labours success, and invoke Divine blessings that your proceedings may be marked not only by good sense, public spirit, and genuine patriotism, but also by wisdom, toleration, justice, and fairness to all; and above all with a vision which may restore India to her pristine glory, and give her a place of honour and equality amongst the great nations of the world. Let us not forget to justify the pride of the great Indian poet, Iqbal, and his faith in the immortality of the destiny of our great, historic, and ancient country, when he summed up in these beautiful lines:

*Yunan-o-Misr-o-Roma sub mit gaye jahan se,  
Baqi abhi talak hai nam-o-nishan hamara.*



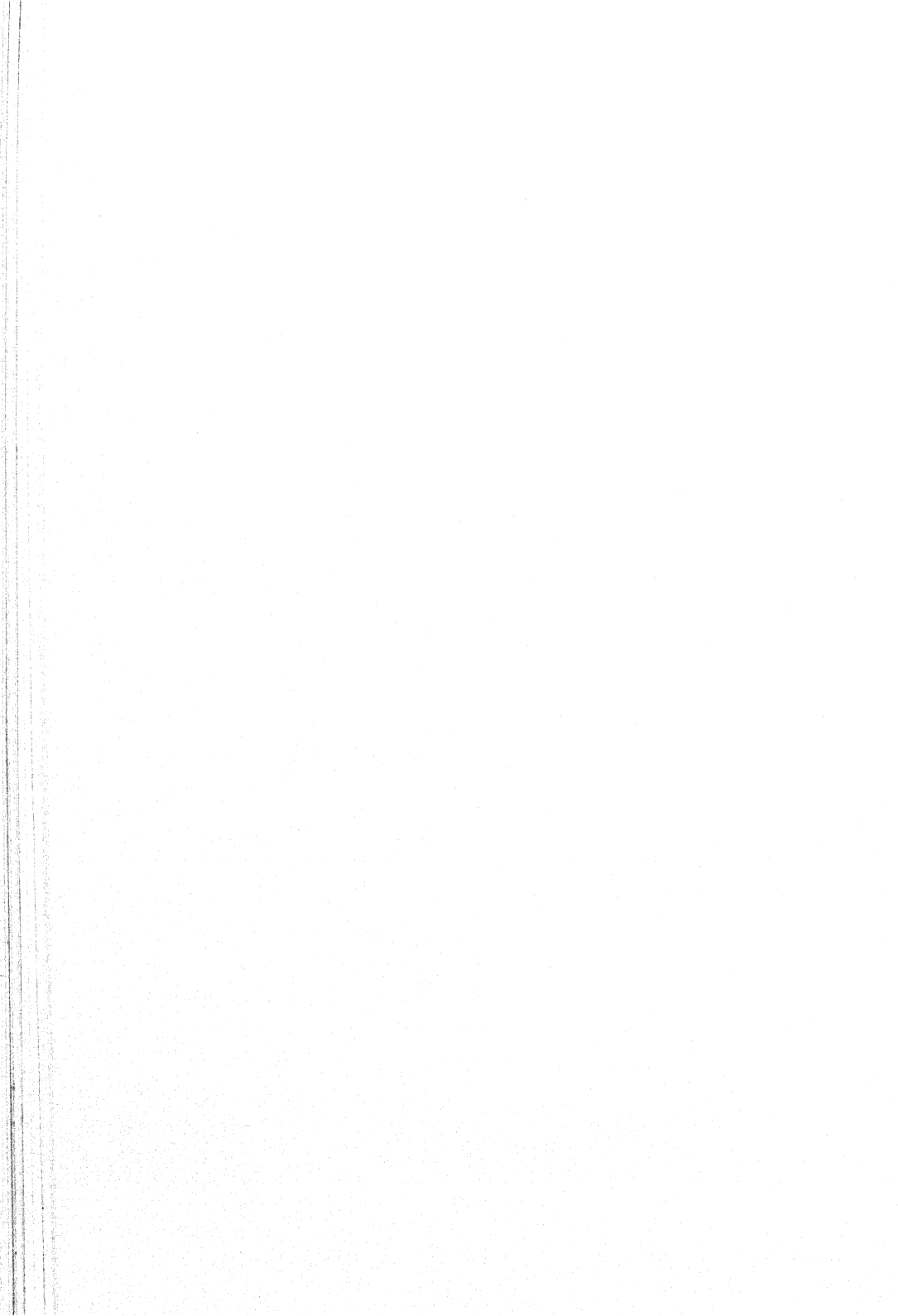
*Kuch bat hai ke hasti mit-ti nahin hamari,  
Sadion raha hai dushman daur-e-zaman hamara.*

It means : "Greece, Egypt, and Rome, have all disappeared from the surface of the Earth; but the name and fame of India, our country, has survived the ravages of Time and the cataclysms of ages. Surely, surely, there is an eternal element in us which had frustrated all attempts at our obliteration, in spite of the fact that the heavens themselves had rolled and revolved for centuries, and centuries, in a spirit of hostility and enmity towards us." I particularly ask of you to bring to your task a broad and catholic vision, for as the Bible justly teaches us: "Where there is no vision the people perish." (*Applause.*)



## PART FOUR

# PROCEDURE OF THE CONSTITUENT ASSEMBLY



## A NOTE ON POINTS OF PROCEDURE

September 2, 1946

*[The Constitutional Precedents (First Series, 1947) issued by the Constitutional Adviser for the use of the members of the Constituent Assembly, contained a note on the 'Points of Procedure'. This note discussed certain procedural points in regard to the Constituent Assembly with reference to precedents in various constitutional conventions and conferences in other countries. The text of the note is reproduced below.]*

## I. PROVINCIAL CO-OPERATION

ACCORDING TO THE scheme outlined in the Cabinet Delegation's statement of May 16, 1946, the Provinces will, to a large extent, be autonomous units exercising all powers except those reserved to the Union. It will, therefore, be necessary to frame the constitution in such a way as to make it acceptable to the Provinces to the largest possible extent; otherwise, it may not work smoothly. For example, the Union services, such as railways, or posts and telegraphs, or broadcasting may occasionally be dislocated by strikes and the Union Government may require the assistance of the law-and-order authorities of the Provinces. Unless the constitution is such as to commend itself to the Provinces, this assistance may not be readily forthcoming and may even be completely withheld. Again, as under section 124 of the Government of India Act, 1935, so under the new constitution, the Union may find it necessary, either by agreement or by law, to confer powers and impose duties on provincial authorities: e.g., to require provincial courts to try and punish offences against Union laws. Or, again, the Union may have to invoke provincial assistance to acquire land for Union purposes. What applies to the Union portion of the constitution applies with even greater force to the provincial. Hence the need for enlisting provincial co-operation as far as possible in the framing of every part of the constitution. Procedure in the Constituent Assembly and its Sections has an important part to play in this connection. Let us see what was done in other countries to secure provincial co-operation.

*Mode of Voting*

*U. S. A. :* In the Philadelphia Convention of 1787, which framed the Constitution of the U.S.A., the representatives of 12 States were present. The strength of the delegation varied from State to State: thus Pennsylvania sent 8 delegates, any 4 of them being competent to represent the State; while Connecticut sent 3, any one or more of them being competent to act. The final draft was signed by 39 representatives in all. Early in the proceedings, the Convention appointed a committee to draw up rules of procedure. The first of these rules, adopted as a Standing Order of the Convention, was as follows:

A House, to do business, shall consist of the Deputies of not less than seven States; and all questions shall be decided by the greater number of these which shall be fully represented; but a less number than seven may adjourn from day to day. (*Documentary History of the Constitution of the United States of America*, Vol. I, p. 51).

It will thus be seen that each State, large or small, had one vote, decisions being by a majority of those that were fully represented. The question as to the mode of voting had been discussed among the members present while the Convention was waiting for a quorum and it had been urged by some that the large State should firmly refuse parity in this matter as unreasonable and as enabling the small States "to negative every good system of government". Ultimately, however, it was felt that such an attempt might lead to fatal altercations and that it would be easier to persuade the smaller States to give in on particular issues than to disarm them on all.

How this worked out in practice may be seen from an actual instance. On June 29, 1787, the Convention debated a proposed provision of the new constitution that each State should have an equal vote in the Upper House of the Federal Legislature. The delegates from Connecticut and the other small States supported the proposal with great ability and vehemence; the large States opposed it bitterly. When the question was put to the vote on July 2, 1787, there was a tie, the votes of five States being in the affirmative, five in the negative and one divided. The divided vote was due to the fact that Georgia, though small at the moment, was a growing State, so that one of its delegates voted "Aye" and the other "No". As the result of the tie, the Convention appointed a Compromise Committee consisting of one member from each State. The committee recommended representation according to population for the Lower House of the Federal Legislature and an equal vote for every State in the Upper House. After several days of acrimonious discussion and the appointment of further committees, this recommendation, slightly modified as regards its first half, was adopted by the Convention by a narrow majority. It may be mentioned that at an early stage of the

debate it had been proposed that one of the smaller States which happened to be absent should be specially requested to attend; but this was regarded as sharp practice and was promptly voted down. The procedure adopted and the whole course of the debate show how every State, large or small, was given its due voice, how anything savouring of unfairness was avoided, and how deadlocks were resolved by a pervading spirit of compromise.

*Canada:* On the very first day of the Quebec Conference which framed the basis of the Canadian Constitution, it was proposed "that in taking the votes on all questions to be decided by the Conference, except questions of order, each Province or Colony, by whatever number of delegates represented, shall have one vote and that in voting Canada be considered as two Provinces". It should be remembered that at that time "Canada" was a single Province consisting of Ontario or Upper Canada and Quebec or Lower Canada. Under the new constitution, these two halves of old Canada became separate Provinces. This explains why in the matter of voting upon the new constitution Canada was considered as two Provinces. In other words, what the Conference did was to give one vote to each unit of the new Union. It may further be mentioned that at the Conference Canada (Ontario and Quebec) was represented by 12 delegates, New Brunswick by 7, Nova Scotia by 5, Prince Edward Island by 7 and Newfoundland by 2. In spite of this unequal representation, the units were given equal voting power.

Next day (on October 11, 1864), the Conference adopted the following rules of procedure:

1. That free individual discussion and suggestion be allowed.
2. That all motions and the discussions and votes thereon be in the first place as if in Committee of the Whole.
3. That after question put, no discussion be allowed.
4. That each Province retire for consultation after question put.
5. That after the scheme is settled in Committee of the Whole, all the resolutions be reconsidered as if with Speaker in the Chair.
6. That just before the breaking up of the Conference, the minutes be carefully gone over and settled, with a view to determining what is to be submitted to the Imperial and Provincial Governments and what is to be published for general information.

Let us see how the proceedings were actually conducted by taking a concrete case: On October 19, 1864, the Conference debated a proposal that representation to the House of Commons, that is to say, the Lower House of the Federal Legislature, should be on the basis of population. Prince Edward Island, which would have been entitled only to five members out of nearly 200 on this basis, objected; but the motion was carried, all the others voting for it. Thereupon, Haviland (for Prince Edward Island) observed: "Prince Edward Island would rather be out of the Confederation than consent to this motion. We should have no status. Only five members out of 194 would give the Island no position." Tilley

(for New Brunswick) pointed out that it had been fully understood at a previous Convention at Charlottetown that representation would be on a population basis. Palmer (for Prince Edward Island) protested that there had been no such understanding at Charlottetown and that representation by population is not applicable when a certain number of Provinces—some with no public debt and low taxation, others with a heavy debt and high taxation—are throwing their resource into one Confederation and giving up their self-government and individuality. Shea (for Newfoundland) supported Tilley. Coles (for Prince Edward Island) also supported Tilley and regretted his own colleague Palmer's attitude. Gray (for Prince Edward Island) also thought that the population basis had been fully accepted at Charlottetown. Galt (for Canada) requested the Prince Edward Island delegates to reconsider their decision, observing that "it would be a matter of reproach to us that the smallest Colony should leave us". Whelan (for Prince Edward Island), who had come prepared to vote with Haviland and Palmer, also suggested reconsideration:

I do not think, however, I could say that I was satisfied with the representation of five in the Federal House of Commons. We are in an isolated position. Our resources are large, and our people would not be content to give up their present benefits for the representation of five members. It may be said that the Confederation will go on without Prince Edward Island, and that we shall eventually be forced in. Better, however, that, than that we should willingly go into the Confederation with that representation. But if the Government who form the delegation will take the responsibility on them, I may support them.

Next day, Palmer said that he had been under a misapprehension the previous evening and that he had since been told by his colleagues from Prince Edward Island that the financial settlement would follow the discussion about representation and that the matter of representation would depend on the financial resolutions. He conceded that that might alter his position. The matter was not, however, put to the vote again and the decision already taken remained.

[The subsequent history of this affair can be briefly told. Ultimately, Prince Edward Island refused to enter the Union, and hence section 146 was inserted in the British North America Act providing that "it shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on addresses from the Houses of the Parliament of Canada and from the Houses of the respective legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island and British Columbia, to admit those Colonies or Provinces or any of them into the Union etc. on such terms and conditions in each case as are in the addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this Act etc." In 1873, forced by financial circumstances, Prince Edward Island sought and obtained admission into the Dominion with a representation of six members in the House of Commons on the ground that its population had increased since the census of 1861.]

Two points are clear from this brief account:



- (1) There was complete freedom of discussion at the Conference, the delegates from the same Province often taking opposite sides.
- (2) The Conference was most anxious to obtain the concurrence of every unit, however small.

*Australia* : At the Australian Convention, which framed the Commonwealth Act, the voting was not by States; but, as against this, it must be noted that each of the States, large or small, had the same number of delegates, ten. There were in all five States at the Convention, two of them (New South Wales and Victoria) large, and the other three small in point of population. Thus, on the whole, the representatives of the smaller States were in a majority. The following extract from *The Annotated Constitution of the Australian Commonwealth* by Quick & Garran (p. 172) will serve to show that although at first the majority were inclined to rely merely on their numbers, ultimately a more accommodating spirit prevailed:

Then, on the 13th April (1897), commenced the last great debate on the Money Bill clauses—a debate which, though it occupied but two days, was certainly the most momentous in the Convention's whole history. It established the recognition by the Convention of the fact that it was a negotiating, and not a legislative, body; that the decision of a majority of representatives within that Chamber went for nothing unless it were a decision which was acceptable to the people of all the colonies. Had that fact and its consequences not been recognised, the present prospects of Federation must have been wrecked, and at the outset there seemed some danger that this might happen. Sir John Forrest, for the small States, announced cheerfully and often that 'we have a majority'; and it seemed for a time that the equal representation of the colonies in the Convention—a necessary principle in an assemblage of contracting States—would exercise an undue influence on the form of the constitution. The recognition of the fact that they must defer to the wishes of majority outside marked the turning point of the Convention, and the entry of the really federal spirit of compromise—a spirit which thenceforward grew, slowly and steadily, through all the sittings of the Convention, and spread from the Convention to the people.

*South Africa* : In the South African Convention, the Provinces were not equally represented, nor did they vote as single units; it must, however, be remembered that the Union of South Africa is not a Federation, but a legislative Union in which the Provinces can hardly be said to be autonomous.

Can we adopt this mode of voting (according to which each Province votes as a single unit) in our Constituent Assembly, whether at the Union level or in the Sections? There will be certain difficulties: first of all, what about the Indian States? Will each of them, large or small, also vote as a single unit? If so, they will swamp the British Indian vote. There will be a similar difficulty, though not of the same order, in respect

of the Chief Commissioner's Provinces. These difficulties are not insuperable. For example some such modified rule as the following may be adopted :

- (1) On all questions relating to the provisions of the new constitution on which a division is challenged, the votes of the representatives of the Provinces shall be recorded Province-wise in the division lists and of the Indian States in a separate group; and the Chairman in announcing the result of the division shall announce separately : (a) the total number of Ayes and Noes in the ordinary way; and (b) the total number of Ayes and Noes among the Governors' Provinces, each such Province being counted as a single unit, affirmative, negative, or neutral according to the result of the division within the Province.
- (2) No such question shall be decided without a majority both of (a) and (b).

This is to be without prejudice to paragraph 19(vii) of the Cabinet Delegation's Statement.

The reason for special treatment of Governors' Provinces is—(1) that unlike Indian States they have no option but to be in the Federal Union, and (2) that unlike Chief Commissioner's Provinces they are for the most part to be autonomous.

There are other solutions possible which it is unnecessary to detail here.

### *Framing of the Constitution*

*Canada* : The Canadian Constitution was in effect framed in two stages with an interval for provincial criticism. The resolutions of the Quebec conference, 72 in number, were passed between October 10 and October 29, 1864. They were then submitted to the several Provincial Governments with a view to their being brought before the respective legislatures for acceptance. The result proved a great disappointment to the advocates of Federation. Only the legislature of one of the Provinces, Canada, accepted the resolutions. The Prince Edward Island legislature openly repudiated its own delegates. All that the legislatures of Nova Scotia and New Brunswick could be induced to do was to agree to appoint new delegates "to arrange with the Imperial Government a scheme of Union which would effectually ensure just provision for the rights and interests of the Provinces, each Province to have an equal voice in such delegation, Upper and Lower Canada being for this purpose considered as separate Provinces". The New Brunswick legislature asked in addition for a provision for the immediate construction of the inter-colonial railway. Newfoundland definitely refused to come into the Union and is still outside. In December 1866, the new delegates of Canada, Nova Scotia and New Brunswick met at the Westminster Palace Hotel in London and reconsidered the Quebec resolutions. Certain modifications were found

necessary to make them more acceptable to the several Provinces. The 69 modified resolutions formed the basis of the British North America Act. In effect, therefore, the draft was prepared in two stages, first at the Quebec Conference in 1864 and then at the Westminster Palace Hotel Conference in 1866, with an interval for criticism by the provincial legislatures.

*Australia and South Africa* : In Australia and South Africa, the same plan was deliberately adopted from the very start. The Australian Convention first met at Adelaide on March 23, 1897. The proceedings lasted a little more than a month and at the end a Bill was settled, which, though it did not represent the unanimous voice of the delegates, at least bore witness to a gradual *rapprochement* among them which promised well for the future. The next session was held at Sydney in September 1897. During the interval the Bill was considered in the various State Parliaments. The last session was held at Melbourne between January 20, 1898, and March 17, 1898, from which the Bill emerged in its final shape. Thus, ample time was given to the several States to criticise the first draft before the final form of the Bill was settled.

Similarly, in South Africa the Convention held its first session at Durban in October 1908, and then adjourned to Cape Town where it completed the first draft by the end of the first week of February, 1909. The Bill was then submitted to the Parliaments of the four Colonies for approval. The final session was held at Bloemfontein which considered the various amendments proposed by the several Parliaments; by June 1909, the new constitution had been accepted by all the four Colonies.

These precedents show another way in which provincial co-operation can be secured: the drafting of the constitution must be done in two or more stages with an interval for criticism in the various Provinces.

So far as India is concerned, yet another way which suggests itself is that the initial drafting of the provincial constitutions should, where possible, be entrusted to committees of the Sections consisting only of representatives of the particular Province concerned. The draft can then be considered by the Section as a whole. Thus, the provincial constitution for Assam may first be drafted by the Assam representatives in Section 'C' and after an interval for criticism by the Assam legislature, the Section as a whole may consider the draft and settle the final form of the Bill.

## II. CHOICE OF THE CHAIRMAN

The Convention that framed the Constitution of the United States met in Philadelphia on May 25, 1787. Its first duty was to choose a Presiding Officer.

As President of the State in whose capital the convention was meeting, as well as by virtue of his age and reputation, Franklin might have

considered himself entitled to that honour. But when the session opened on the morning of the twenty-fifth with a majority of the states in attendance, Robert Morris on behalf of the Pennsylvania delegation formally proposed George Washington for President. Franklin himself was to have made the nomination, but as the weather was stormy he had not dared to venture out. No other names were offered, and the convention proceeded at once, but formally, to ballot upon the nomination. Washington was declared to be unanimously elected, and was formally conducted to the chair by Robert Morris and John Rutledge. (*The Framing of the Constitution* by Farrand, p. 55.)

It must be remembered that Benjamin Franklin was at that time a very old man, 81 years of age, so feeble that all his speeches had to be read for him by his colleague Wilson. Though highly respected, he does not appear to have taken a very prominent part in the proceedings except for a memorable observation which he made at the end while the last members were signing the completed constitution.

Dr. Franklin looking towards the President's Chair, at the back of which a rising sun happened to be painted, observed to a few members near him that painters had found it difficult to distinguish in their art a rising from a setting sun. I have, said he, often and often in the course of the Session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President without being able to tell whether it was rising or setting : but now at length I have the happiness, to know that it is a rising and not a setting sun. (Farrand, *op., cit.*, p. 194.)

George Washington, who was chosen President, was 55 years of age at the time and at the height of his popularity. The successful outcome of the Revolution had silenced all criticism of his conduct of the war and his retirement to Mount Vernon had appealed to the popular imagination. The feeling towards him was one of devotion, almost of awe and reverence. Of his part in the making of the constitution, Farrand writes :

The parts which were taken by various men in the debates of the convention will be partially brought out in describing the proceedings, but it seems worthwhile to notice one man who took no part in the discussions but whose influence is believed to have been important. That man was George Washington, the presiding officer of the convention. His commanding presence and the respect amounting almost to awe which he inspired must have carried weight, especially in so small a gathering in the 'long-room' with the president sitting on a raised platform. (Farrand, *op., cit.*, p. 64.)

A striking instance of Washington's personal influence may be found in an incident which occurred towards the close of the Convention. Just before the question was to be put, upon the adoption of the completed constitution, one of the delegates said that if it was not too late, he would like to see the ratio of representation in the Lower House of the Congress changed from one for every 40,000 inhabitants to one for every 30,000 inhabitants. This suggestion had been made at an earlier stage in the

Convention and had been rejected. Nevertheless, when Washington rose to put the question, he said that although he recognised the impropriety of his speaking from the Chair, he felt this amendment to be of such consequence that "he could not forbear expressing his wish that the alteration proposed might take place". Not a single objection was made and the change was then unanimously agreed to.

*Canada* : The Quebec Conference met in what was then a part of the Province of Canada. The Prime Minister of Canada, Sir Etienne Pascal Tache, aged 69, was elected Chairman, being proposed by Gray (Prince Edward Island) and seconded by Tilley (New Brunswick).

*Australia* : Unlike the Philadelphia Convention and the Quebec Conference, the Australian Convention held its sessions in public and we have therefore a full record of what took place. The first session was held in Parliament House, Adelaide, South Australia, on Monday, March 22, 1897. The delegates met in the House of Assembly Chamber at Parliament House, Adelaide. The clerk of the Legislative Council of Adelaide read out the various Proclamations relating to the meeting of the Convention and the certificates of appointment of the representatives to the Convention for the various States. He then requested the delegates to attend at the table and sign the roll. Thereafter, Sir Joseph Abbot, a delegate from New South Wales, proposed Mr. Kingston, Premier of South Australia, for the office of President in the following terms:

It is a very pleasing duty to me to follow what has been the established precedent in reference to these Conventions. For many years past in the colonies in which they have been held, invariably the Premiers of the colonies have been chosen to preside over the meetings of the Conventions, and that is a rule there is no justification in departing from on the present occasion.

Sir Graham Berry, a delegate from Victoria, seconded the nomination :

Following the precedents which have always prevailed in the Australian Colonies, that the Premier of the Colony in which the Convention is being held shall preside, I think the motion will be unanimously carried and that Mr. Kingston's election will meet with the approval of the delegates.

There was no other nomination and accordingly Mr. Kingston was elected President.

*South Africa* : The South African Convention held its first session in Durban (Natal) on October 12, 1908. Lord (then Sir Henry) de Villiers, Chief Justice of the Cape Colony, was chosen President and Ex-President Steyn of the Orange River Colony was elected Vice-President. The Chairman had the right of speaking and voting and in the event of an equality of votes he had a casting vote. In acknowledging the honour conferred upon him, he said, among other things:

Failure is certain if we start with a feeling of distrust and suspicion of each other and with the sole desire to secure as many advantages

as we can for our respective political parties or our respective Colonies. Success is certain if we give each other our fullest confidence and act upon the principle that, while not neglectful of the interests of those who have sent us here, we are for the time being representatives of the whole of British South Africa. (*The Inner History of the National Convention of South Africa* by Walton, p. 40).

### III. LANGUAGE TO BE USED

The question of language arose in an acute form in the South African Convention. It was found that though all the members could follow speeches in the English language, some found a difficulty in expressing themselves in any tongue but Dutch. It was therefore arranged that Dr. Bok, the Secretary to the Prime Minister, should attend the meetings and act as interpreter. General Botha spoke almost invariably in Dutch and so did several other delegates, while some of the bilingual speakers used either the one language or the other. Whenever Dr. Bok's services were requisitioned, the speech took twice as long to deliver as when spoken in English. However, there was the best possible understanding among the members on this subject throughout the whole of the sittings and no difficulty whatever was experienced. (Walton, *op. cit.*, pp. 37, 38.)

### IV. WHETHER SESSIONS SHOULD BE OPEN OR IN CAMERA

*U. S. A.* : The sessions of the Philadelphia Convention of 1787 which framed the Constitution of the U.S.A. were strictly secret and sentries were planted without and within the building to prevent any person from coming near. The Convention also adopted a rule that "nothing spoken in the House be printed or otherwise published or communicated without leave". There were of course many rumours current as to what was being done in the Convention and at one stage when serious differences of opinion threatened to disrupt the Assembly, the following inspired item of news appeared in the press:

So great is the unanimity, we hear, that prevails in the Convention, upon all great federal subjects, that it has been proposed to call the room in which they assemble—"Unanimity Hall".

It is related that on one occasion quite early in the proceedings one of the members dropped his copy of the agenda on the floor and it was picked up by another delegate and handed to the President, General Washington. After the day's debate, the President rose from his seat and reprimanded the member for his carelessness:

I must entreat Gentlemen to be more careful, lest our transactions get into the newspapers and disturb the public repose by premature speculations. I know not whose Paper it is, but there it is (*throwing it down on the table*), let him who owns it take it.

He then bowed and quitted the room. None dared to own the paper.

The reason for adopting this rule of secrecy was that any publication of the opinions of members "would be an obstacle to a change of them on conviction and might furnish handles to the adversaries of the result of the meeting".

*Canada* : At the Quebec Conference which framed the basis of the Canadian Constitution, correspondents representing Canadian, British and American newspapers submitted a memorial asking for facilities to report the proceedings. The Secretary to the Conference told them in reply : Whilst the members of the Conference fully appreciate the motives by which you are actuated in your communication, and are equally sensible of the deep interest naturally felt by the people of the several British North American Provinces in the objects of the Conference, they cannot but feel that it is inexpedient, at the present stage of the proceedings, to furnish information which must, of necessity, be incomplete ; and that no communication of their proceedings can properly be made until they are enabled definitely to report the issue of their deliberations to the Governments of the respective Provinces. (Pope's "*Confederation Documents*", p. 11.)

*Australia* : On the first day of the Adelaide session, one of the members gave notice of a motion that the proceedings of the Convention be open to the public except when otherwise ordered. The motion was taken up the next day and the speeches made are reproduced below :

*Mr. Holder* : I move :

*That the proceedings of the Convention be open to the public except when otherwise ordered.*

I submit this motion, feeling assured that every member of the Convention will wish the proceedings to be as public as possible. We should take the public into our confidence at the earliest possible moment, and, while availing ourselves of the other powers in this Convention, the educative influences that will be exercised by admitting the public to this Convention will be largely promoted.

*Sir Richard Baker* : I second the motion.

*Sir George Turner* : I desire to ask whether the proceedings of the Convention will include the Convention in committee.

*Mr. Barton* : Select Committee?

*Sir George Turner* : No ; I understand that in Select Committee it would be desirable that we should discuss matters in private, but what I desire to make clear is whether, when the Convention goes into committee, the proceedings of the committee as a whole should be open to the public. I think that should be so ; and I wish to know if the words are sufficiently wide. If they are I shall be perfectly satisfied.

*The President* : I take it that the words are sufficiently wide for the committee of the whole, but not for Select Committees.

Question resolved in the affirmative. (*Official Report of the National Australian Convention Debates, Adelaide, 1879, p. 8.*)

Of an earlier Convention at Sydney in 1891, which also decided to hold its meetings in public, Egerton remarks :

Rightly or wrongly—rightly from the point of view of future edification, perhaps wrongly in the interests of the swift dispatch of business—it was decided that the Convention should sit with open doors, though the actual work of drafting was done informally by sub-committees.

*South Africa:* The South African Convention copied the U. S. A. and Canadian precedents rather than the Australian:

Unlike its Australian Predecessors, the (South African) Convention sat in secret, and therefore no reference to its proceedings can be made without a breach of confidence. It is impossible to doubt the wisdom of this procedure. The questions handled were so delicate, and the feeling upon them throughout the country so divided and so acute, that it is not conceivable that an agreement could have been reached in public. It is well known that, on more occasions than one, feeling in the Convention itself ran high. Its work was only brought to a successful issue because no appeal was possible to the gallery. The public was brought to recognise that the result must in any case be a delicately-balanced equipoise, and, instead of being daily inflamed, was content to wait and pass a final judgment on the completed work. Thus the men who represented it were emboldened to act calmly and with courage, and with a due sense, not only of the immediate present, but of their responsibility towards future generations. As it was, and as must no doubt always be the case in such matters, much was settled outside the Convention itself. Compromises that seemed impossible in the formal atmosphere of the Convention room, settled themselves sooner or later through the medium of personal influences. This process of gradual solution, which was incessant throughout the Convention, would have been impossible in the glare of publicity. (*The Union of South Africa*, by Brand, pp. 39-40).

#### V. RESIGNATION OF MEMBERS, CONTROVERTED ELECTIONS AND FILLING OF CASUAL VACANCIES

There is no provision in the Cabinet Delegation's Statement of May 16, 1946, as to the manner in which a member of the Constituent Assembly may resign his seat or the circumstances or manner in which an election may be challenged or the manner in which a vacancy arising from death, resignation or other cause is to be filled. It cannot be assumed that members have an inherent right of resignation: for example, a member of the House of Commons in England has no such right, although in certain circumstances, prescribed by law, his seat is vacated. It may well be that until there is some rule providing for resignation or vacation of seat, a member once elected to the Constituent Assembly continues as such. Moreover, as the Constituent Assembly is an extra-legal body and its resolutions do not immediately affect any legal rights, it is not certain that the ordinary courts of law will have jurisdiction to entertain election disputes. It may be mentioned that the House of Commons provides



for its own proper constitution, whether in the matter of filling vacancies, or determining election disputes outside the jurisdiction of the courts, or determining the right of its members to sit and vote in cases of doubt. In all these matters, therefore, the Constituent Assembly will have to make its own rules to fill any gaps.

#### VI. GROUPING

It has sometimes been contended that freedom to opt out of a Group already formed is not the same thing as freedom to form a Group and that there is therefore a conflict between what is recommended in paragraph 15(5) of the Cabinet Delegation's Statement of May 16, 1946 and what is granted in paragraph 19(v) and (viii). The conflict, if any, is of a kind that can be reduced or removed, *inter alia*, by suitable drafting technique. For example, the new constitution, like the Act of 1935, may be framed in Parts: one Part, say Part I, setting out the Provincial constitutions, another Part, say Part II, setting out the Group constitutions and so on. As under the Act of 1935, the several Parts need not come into force on the same date; it may be provided that Part I shall come into force first and that Part II shall not come into force as regards any particular Province, until the Legislative Assembly of that Province formed after the first general election held under Part I has by resolution accepted Part II. An affirmative resolution would mean that the Province agrees to form the proposed Group; a negative resolution would be equivalent to opting out of the proposed Group. On this plan, therefore, freedom to form a Group as well as freedom to opt out according to the Cabinet Delegation's Statement is, in effect, secured to each Province. There may be other plans possible, *e.g.*, those suggested under the head of Provincial Co-operation above; all these are matters of procedure to be discussed in due course.

#### VII. INTERPRETATION

The Cabinet Delegation's Statement of May 16, 1946 was not drafted with the fullness or precision of a Statute. But it has come to be looked upon as a kind of fundamental law and questions of interpretation of various words or phrases used in the document are bound to arise from time to time in the Constituent Assembly. In the House of Commons, there is an officer known as the Speaker's Counsel to assist the Speaker and the House generally in legal and quasi-judicial matters. On this analogy, the Constituent Assembly may have a special officer or tribunal of its own to assist in questions of interpretation or, if it thinks fit and if the judges of the Federal Court agree, may refer any such questions to the judges for an advisory opinion.

## VIII. PROCEDURE GENERALLY

As regards general procedure, the Australian Convention adopted the standing orders and practice of the South Australian Assembly. Following this precedent, the Constituent Assembly may adopt, with suitable modifications, the rules and standing orders of the Indian Legislative Assembly.

RESOLUTION ON THE PROCEDURE FOR THE  
ELECTION OF THE PERMANENT CHAIRMAN  
December 10, 1946

*[The resolution was moved in the Constituent Assembly by Acharya J. B. Kripalani on December 10, 1946, and was adopted on the same day. In accordance with this resolution, Rajendra Prasad was unanimously elected permanent Chairman of the Assembly on December 11.]*

THE ASSEMBLY HEREBY RESOLVES that the following rules for the election of Chairman be adopted:

- (1) At any time before 2-30 P.M., today any member may nominate another member for election by delivering to the temporary Chairman or to a person appointed by him a nomination paper signed by the proposer and by a third member as seconder and stating—
  - (a) the name of the member nominated, and
  - (b) that the proposer has ascertained that such member is willing to serve as Chairman, if elected.
- (2) At any time to be [fixed by] the temporary Chairman, the temporary Chairman shall read out to the Assembly the names of the members who have been duly nominated together with those of their proposers and seconders and, if only one member has been so nominated, shall declare that member to be duly elected. If more than one member has been so nominated the Assembly shall proceed to elect the Chairman by ballot on a date to be fixed by the temporary Chairman.
- (3) For the purpose of rule (2) a member shall not be deemed to have been duly nominated or be entitled to vote, if he and his proposer and seconder have not signed the Assembly Register as members of the Assembly.
- (4) Where only two candidates are nominated, the candidate who obtains at the ballot the larger number of votes shall be declared elected. If they obtain an equal number of votes, the election shall be by the drawing of lots.
- (5) Where more than two candidates have been nominated and at the first ballot no candidate obtains more votes than the aggregate votes obtained by the other candidates, the candidate who has obtained

the smallest number of votes shall be excluded from the election, and balloting shall proceed, the candidate obtaining the smallest number of votes at each ballot being excluded from the election until one candidate obtains more votes than the remaining candidate or than the aggregate votes of the remaining candidates, as the case may be, and such candidate shall be declared elected.

- (6) Where at any ballot any of three or more candidates obtain an equal number of votes and one of them has to be excluded from the election under rule (4) the determination as between the candidates whose votes are equal of the candidate who is to be excluded shall be by the drawing of lots.

RESOLUTION ON THE PROVISIONAL ADOPTION  
OF CENTRAL LEGISLATIVE ASSEMBLY RULES  
AND STANDING ORDERS

December 10, 1946

*[The object of the resolution, as explained by its mover, Jawaharlal Nehru, was to facilitate the business of the House till it framed its own Rules of Procedure. The resolution was moved and adopted on December 10, 1946.]*

THAT THE ASSEMBLY do adopt, with such modifications as the Chairman may in his absolute discretion permit, the Rules and Standing Orders of the Central Legislative Assembly, pending the framing by the Constituent Assembly of its own Rules of Procedure.

## COMMITTEE ON THE RULES OF PROCEDURE

### December, 1946

*[On December 10, 1946, Acharya Kripalani moved a resolution for the appointment of a committee on the Constituent Assembly Rules of Procedure. It was adopted on the same day with a number of modifications. The most important of the amendments, which were eventually carried by the House, was the one laying down specifically that the Constituent Assembly was competent to frame rules for the Sections and the committees.\* The amendment was moved by Suresh Chandra Banerjee and supported by a number of other members, including Syama Prasad Mookerjee, Purushottamdas Tandon, Harnam Singh and K. M. Munshi. The amendment was intended to make it clear that the Assembly was one and indivisible and the Sections were not independent bodies which could provide for procedure inconsistently with the rules of the Assembly. Later, on the same day, the temporary Chairman, Dr. Sachchidananda Sinha, announced that nominations for elections to the Rules Committee were to be filed by 12 noon on the following day. As only 15 nominations were put in, the necessity of an election by ballot was obviated and all the candidates proposed, namely, Jagjivan Ram, Sarat Chandra Bose, F. R. Anthony, Alladi Krishnaswami Ayyar, Bakshi Tek Chand, Rafi Ahmad Kidwai, (Mrs.) G. Durga Bai, Joseph Alban D'Souza, N. Gopalaswami Ayyangar, Purushottamdas Tandon, Gopinath Bardoloi, B. Pattabhi Sitaramayya, K. M. Munshi, Mehr Chand Khanna and Sardar Harnam Singh, were declared duly elected to the committee. The text of the resolution as adopted by the House and the Report of the Committee submitted on December 20, are reproduced below.]*

### (I) RESOLUTION APPOINTING THE COMMITTEE

December 10, 1946

THIS ASSEMBLY RESOLVES—

- (1) to appoint a committee consisting of a Chairman and 15 other

\*The words "including Sections and Committees" in clause (1)(a) of the resolution, as adopted, were brought in by this amendment.

members with power to co-opt not more than five to report on the following matters:

- (a) Rules of Procedure of the Assembly, including Sections and Committees;
  - (b) Powers of the Chairman;
  - (c) Organization of the work of the Assembly, including the appointment, functions and powers of office bearers other than the Chairman; and
  - (d) Procedure for the declaration and filling of vacancies in the Assembly;
- (2) that the Chairman of the Assembly shall be the Chairman of the committee ;
  - (3) that the members of the committee be elected in the manner prescribed in the Schedule ; and
  - (4) that, pending the decision of the Assembly in that behalf, the Chairman shall—
    - (a) fix the allowances of the members of the Assembly;
    - (b) in the case of the servants of the Government of India or any Provincial Government whose services are placed at the disposal of the Assembly, fix their salaries and allowances in consultation with the Government concerned; and
    - (c) fix the salaries and allowances of all other persons recruited directly for the business of the Assembly.

### SCHEDULE

1. The members of the committee shall be elected according to the principle of proportional representation by means of the single transferable vote. The election shall be conducted as nearly as possible in accordance with the regulations in force in this behalf in the Central Legislative Assembly.

2. The Chairman shall fix and announce a date and time for the holding of the election (if necessary) of the members of the committee.

3. Notice may be given by any member desirous of proposing a member or members for election to the committee. Notice shall be given in writing addressed to the Secretary and signed by the member giving notice and shall be left at the Notice Office before 12 noon on a day to be fixed by the Chairman. The member giving notice must satisfy himself that the members he proposes are willing to serve if elected.

3A. If within the time appointed by the Chairman any candidate proposed desires to withdraw his name, he shall be free to do so.

4. If the number of candidates so nominated is less than the number of vacancies to be filled, the Chairman shall declare the persons so nominated as duly elected and for the remaining vacancies will appoint a further period within which the notice aforesaid may be given and may thereafter appoint additional further periods until the number of candidates is not less than the number of vacancies to be filled.

5. If the total number of candidates nominated is equal to the number of vacancies to be filled, the Chairman shall declare all the candidates to be duly elected.

6. If the total number of candidates nominated exceeds the number of vacancies, an election shall be held in the manner prescribed in rule 1.

7. For the purpose of these rules, a member shall not be deemed to have been duly nominated or be entitled to vote if he and his proposer have not signed the Assembly Register as members of the Assembly.

## (II) REPORT OF THE COMMITTEE

COUNCIL HOUSE,

New Delhi, the 20th December, 1946.

To

THE CHAIRMAN,  
CONSTITUENT ASSEMBLY.

SIR,

We, the undersigned, members of the Committee on the Rules of Procedure appointed by the Constituent Assembly on the 11th day of December, 1946, have considered the matters referred to us and have now the honour to submit this our Report.

2. We recommend that the Rules as presented by us, (*see Annexure*) subject to a rearrangement of Chapters III to VI (so that the present Chapter III may come after present Chapter VI) and consequential renumbering of the Rules, be now passed.

3. As Mr. Sarat Chandra Bose was unable, on account of indisposition, to attend all but the last meeting, we invited Dr. Syama Prasad Mookerjee to assist us in our deliberations.

Signed on behalf of the committee.

RAJENDRA PRASAD  
Chairman,

*Committee on Rules of Procedure.*

## ANNEXURE

### RULES OF PROCEDURE

#### Chapter I Definitions

*Date of  
commence-  
ment.*

1. These rules may be called the Constituent Assembly Rules. They shall come into force at once.

*Definitions.*

2. In these rules, unless the context otherwise requires :
  - (a) "Assembly" means the Constituent Assembly of India.
  - (b) "Chairman" means the person who for the time being presides over the Assembly or any of its Sections or committees.
  - (c) "Member" means a member of the Assembly.
  - (d) "President" means the person elected by the Assembly at its preliminary session as the Chairman under the provisions of the Statement and his successors in office.
  - (e) "Secretary" means the Secretary of the Assembly.



- (f) "Section" means a Section of the Assembly referred to in the Statement.
- (g) "Statement" means the Statement of the Cabinet Mission to India and H.E. the Viceroy dated May 16, 1946.

### Chapter II

#### Admission of Members and Vacation of Seats

3. No member shall take his seat or vote in the Assembly or any Section thereof until he has signed his name in the Register kept for the purpose at a meeting of the Assembly or, if the Assembly is not in session, in the presence of the President.

*Admission  
of members.*

4. (1) A member may resign his office by writing under his hand addressed to the President.

*Resignation.*

(2) On the acceptance of the resignation by the President the seat shall become vacant :

Provided that no resignation from the member representing Delhi or Ajmer-Merwara shall be accepted unless he has resigned his membership of the Indian Legislative Assembly.

5. (1) When a vacancy occurs by reason of death, resignation or otherwise in the office of a member of the Assembly, the President shall notify the vacancy and call upon the constituency concerned to elect a person for the purpose of filling the vacancy.

*Casual  
vacancies.*

(2) A candidate for a vacancy shall be such as could be elected by the constituency concerned under the Statement.

(3) When a member ceases to be a member by reason of death, or resignation, or otherwise, the President shall ordinarily make a request in writing to the Speaker of the Provincial Legislative Assembly concerned, or, as the case may be, the President of the Coorg Legislative Council, or the appropriate authority in British Baluchistan, for the election of a person, for the purpose of filling the vacancy as soon as may reasonably be practicable.

(4) Where the vacancy is in the office of a member elected by a Provincial Legislative Assembly, the seat shall be filled by election according to the principle of proportional representation with the single transferable vote by the members of the same community whether General, Muslim or Sikh, in the Legislative Assembly, as had elected him.

(5) Only an Indian, that is to say, a person domiciled in any part of India, may be nominated for election as a member of the Constituent Assembly.

(6) As soon as may be after the receipt of the request mentioned in sub-rule (3), the Speaker of the Provincial Legislative Assembly concerned shall appoint, by suitable notification,—

- (a) a date, not later than fifteen days after the date of notification, for the nomination of candidates ;
- (b) a further date, not later than the third day after the first-mentioned date, for the scrutiny of nominations ;
- (c) a further date not later than two days after scrutiny for withdrawal of his candidature by a candidate ; and
- (d) a further date not later than twenty-one days from the date fixed for withdrawal on which a poll shall, if necessary, be taken.

(7) The votes shall be given by ballot and in person :

Provided that when the Assembly is not in session, votes may, at the option of the voter, be given in person or by registered post, provided further that no votes shall be given by proxy.

(8) After the votes are duly counted, the result of the election shall be declared and reported to the President.

(9) Save as otherwise provided in these Rules, the elections to the Constituent Assembly shall be held, *mutatis mutandis*, in accordance with the rules and regulations for the time being in force in regard to elections held by the Provincial Legislative Assembly, and, where no such rules and regulations exist, in accordance with the standing orders that may be made in this behalf by the President of the Constituent Assembly.

(10) The foregoing rules shall apply in relation to Coorg, subject to the following modifications, namely,—

(a) that for "the Provincial Legislative Assembly" there shall be substituted "the Coorg Legislative Council" and for the "Speaker of the Provincial Legislative Assembly", there shall be substituted the "President of the Coorg Legislative Council" and

(b) that instead of a section of the Provincial Legislature taking part in the election, the non-official members of the Coorg Legislative Council shall take part in it.

(11) On and after the date on which these rules come into force, the member who for the time being represents Delhi or Ajmer-Merwara in the Indian Legislative Assembly shall also be the member representing Delhi or Ajmer-Merwara, as the case may be, in the Constituent Assembly, any other seat held by him in the Constituent Assembly being thereupon deemed to be vacant.

### Chapter III

#### Business of the Assembly

#### *Business.*

6. (1) The business of the Assembly means the business conducted—

- (i) in the Assembly itself;
- (ii) in the Committee of the whole Assembly;
- (iii) in the Sections;
- (iv) in the Advisory Committee referred to in paragraph 20 of the Statement;
- (v) in the Steering Committee;
- (vi) in the Staff and Finance Committee;
- (vii) in the Credentials Committee; and
- (viii) in such other committees or sub-committees as may be set up by the Assembly or the Sections or the Advisory Committee or other committees.

(2) The business of the Assembly shall be conducted in New Delhi unless the Assembly resolves otherwise.

(3) The conduct of the business of the Assembly and the procedure thereof shall be regulated by the rules and standing orders and the resolutions of the Assembly and by the rulings given from time to time by the Chairman.

#### *Dissolution.*

7. The Assembly shall not be dissolved except by a resolution assented to by at least two-thirds of the whole number of members of the Assembly.

8. The Assembly shall sit on such dates as the President, having regard to the state of business of the Assembly, may from time to time direct :

*Date of meetings.*

Provided that the President shall not adjourn the session for more than three days at a time except with the permission of the Assembly.

9. The Assembly may resolve itself into a Committee of the whole Assembly.

*Committee of the whole Assembly.*

10. Meetings of the Assembly shall commence at 11 A.M. except as otherwise resolved by the Assembly or directed by the Chairman.

*Time of meetings.*

11. (1) A list of business for the day shall be prepared by the Secretary and a copy thereof shall be supplied for the use of every member before the commencement of the business of the day. The business thus prepared shall be called the "Orders of the Day".

*Arrangement of business.*

(2) Save as otherwise provided in these rules, no business, not included in the Orders of the Day, shall be transacted at any meeting without the leave of the Chairman.

12. The business of the Assembly shall be brought before it or its committees by means of—

*Notice of Motions.*

(a) a motion ;

(b) a report of a committee ;

(c) an amendment to a motion or an amendment to an amendment.

13. (1) Unless otherwise directed by the Chairman, notice of every motion accompanied by a copy of the motion shall be given at least three clear days before the day on which the motion is to be moved in the Assembly.

(2) Every notice required by these rules shall be given in writing addressed to the Secretary and signed by the member giving notice and shall be left at the Notice Office, which shall be open for the purpose between the hours of 11 A.M. and 5 P.M.

(3) Notices left when the office is closed shall be treated as given on the next open day.

(4) Where three clear days' notice of a motion has been given, the Secretary shall send a copy of the motion to the members at least two clear days before the day on which it is to be moved ; and in other cases, he shall send a copy to them as soon as possible after notice has been received.

(5) No notice shall be required—

(a) for a motion for an adjournment of the Assembly ;

(b) for a motion for adjournment of the consideration of the motion which is under discussion ;

(c) for a motion for reference back to a committee ;

(d) for a motion that the Assembly do resolve itself into committee of the whole ; or

(e) for a motion which, in the opinion of the Chairman, is of urgent and vital importance.

14. There shall be no motion for an adjournment of the Assembly for the purpose of discussing any matter not included in the Orders of the Day, or not connected with the work of the Assembly.

*Motions of adjournment.*

*Quorum.*

15. (1) The presence of at least two-fifths of the total number of members shall be necessary to constitute a meeting of the Assembly or of any of its Sections, as the case may be:

Provided that when a Section is settling the Provincial constitution for any Province included therein, the presence of at least two-fifths of the representatives of that Province shall be necessary.

(2) If the Chairman, on a count being demanded by a member at any time during a meeting, ascertains that the requisite number of members is not present, he shall adjourn the Assembly till the next day on which it ordinarily sits:

Provided that no demand for a count to ascertain the presence of a quorum shall be made within one hour of any previous count.

*Seating of Members.*

16. The members shall sit in such order as the President may appoint.

*Member to rise when speaking.*

17. A member desiring to make any observation on any matter before the Assembly shall speak when called upon to do so by the Chairman and shall rise when he speaks, except as permitted by the Chairman. If, at any time, the Chairman rises, the member shall take his seat and cease speaking.

*Language in the Assembly.*

18. (1) In the Assembly, business shall be transacted in Hindustani (Hindi or Urdu) or English, provided that the Chairman may permit any member unacquainted with either language to address the Assembly in his mother tongue. The Chairman shall make arrangements for giving the Assembly, whenever he thinks fit, a summary of the speech in a language other than that used by the member and such summary shall be included in the record of the proceedings of the Assembly.

(2) The official records of the Assembly shall be kept in Hindustani (both Hindi and Urdu) and English.

*Motions.*

19. (1) A matter requiring the decision of the Assembly shall be brought forward by means of a question put by the Chairman.

(2) In all matters requiring to be decided by the members of the Assembly, the Chairman shall exercise a vote only in the case of an equality of votes.

(3) Any question relating to a matter referred to in paragraph 19(vii) of the Statement shall be decided as laid down therein.

(4) Votes may be taken by voices or division and shall be taken by division if any member so desires.

(5) The Chairman shall determine the method of taking vote by division.

(6) The result of a division shall be announced by the Chairman and shall not be challenged.

*Amendments.*

20. (1) An amendment must be relevant to the motion to which it is proposed.

(2) An amendment may not be moved which has the effect of being the negative of the original motion.

(3) (a) Notice of any amendment to a motion must be given at least one clear day before the motion is to be moved in the Assembly.

(b) Notices of any amendment to an amendment must be given before the Assembly meets for the day on which the motion is to be moved.

(4) The Chairman may disallow any amendment which he considers to be frivolous or dilatory.

(5) The Chairman may put amendments to the vote in any order he may choose.

21. No question which has once been decided by the Assembly shall be reopened except with the consent of at least one-fourth of the members present and voting.

22. Any time after a motion has been made, any member may move "that the question be now put" and unless it appears to the Chairman that the motion is an infringement of the right of reasonable debate, the Chairman shall put the motion, "that the question be now put"; and if the motion is accepted, no further discussion on the original motion shall be permitted except for a reply by the member who made the original motion.

*Closure.*

23. In all matters relating to procedure or the conduct of business, the decision of the Chairman shall be final :

*Decision  
on points  
of order.*

Provided that when a motion raises an issue which is claimed to be a major communal issue, the Chairman shall, if so requested by a majority of the representatives of either of the major communities, consult the Federal Court before giving his decision:

Provided further that no Section shall trespass upon the functions of the Union Assembly or vary any decision of the Union Assembly taken upon the report of the Advisory Committee referred to in paragraph 20 of the Statement.

23-A. It shall be the exclusive function of the Advisory Committee referred to in paragraphs 19 and 20 of the Statement to initiate and consider proposals and to make a report to the Assembly upon fundamental rights, clauses for the protection of minorities and the administration of tribal and excluded areas; and it shall be the exclusive function of the Assembly to take decisions upon such report and further to decide the question of the incorporation of these rights in the appropriate part of the constitution.

*Decisions  
upon the  
report of  
the  
Advisory  
Committee.*

24. The Chairman of the Assembly after having called the attention of the Assembly to the conduct of a member, who persists in irrelevance or in tedious repetition, either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech, and the member shall, thereupon, resume his seat.

*Irrelevance or  
repetition.*

25. (1) The Chairman shall preserve order and shall have all powers necessary for the purpose of enforcing his decisions on all points of order.

*Power to order  
withdrawal of  
a member.*

(2) The Chairman may, in the case of grave disorder arising in the Assembly, suspend any sitting for a period not exceeding three days.

26. (1) The meetings of the Assembly may, in the discretion of the Chairman, be held *in camera*.

*Meetings in  
camera.*

(2) The proceedings of all committees shall be conducted *in camera*.

(3) The admission of persons other than members to the Assembly Chamber and its galleries during the sittings of the Assembly shall be regulated in accordance with the orders of the Chairman.

(4) The Secretary shall cause full reports of the proceedings of the Assembly to be printed and circulated to all members :

Provided that, where any meeting is held *in camera*, such reports shall be marked confidential and for the personal use of the members only.

(5) Where any meeting of the Assembly is held *in camera*, the Chairman may authorise a summary of the proceedings to be issued to the press.

#### Chapter IV

##### The President

##### *Election.*

27. (1) The President of the Assembly shall be elected by the Assembly from among its members.

(2) The President shall cease to hold office as such if he ceases to be a member of the Assembly.

##### *Vacation of office.*

(3) The President may resign office by writing under his hand addressed to the Secretary for communication to the Assembly. If the Assembly is in session, the resignation shall be read out to the members; if the Assembly is not in session, it shall be published in the Gazette of India; upon being so read out or published, as the case may be, it shall become effective.

##### *Procedure for filling vacancy.*

(4) When, owing to a vacancy in the office of President of the Assembly, the election of another President becomes necessary, one of the Vice-Presidents appointed in this behalf by the Steering Committee shall fix a date for the holding of the election and the Secretary shall send to every member notice of the date so fixed.

(5) At any time before noon on the day preceding the date so fixed any member may nominate another member for election by delivering to the Secretary a nomination paper signed by himself as proposer and by a third member as seconder and stating—

(a) the name of the member nominated, and

(b) that the proposer has ascertained that such member is willing to serve as President if elected.

(6) On the date fixed for election the Vice-President or other member performing the duties of the President shall read out to the Assembly the names of the members who have been duly nominated together with those of their proposers and seconders, and, if only one member has been so nominated, shall declare that member to be elected. If more than one member has been so nominated, the Assembly shall proceed to elect a President in accordance with the principle of proportional representation by means of the single transferable vote.

(7) The deliberations of the Assembly shall be presided over by the President, when he is present.

(8) The President shall be the guardian of the privileges of the Assembly, its spokesman and representative and its highest executive authority.

28. The President may, subject to such conditions as he may prescribe, delegate to a Vice-President such of his powers and duties as he may think fit.

29. The President may appoint, from among the members of a Section, a Chairman to preside over that Section until such time as the Section elects its own Chairman.

#### *Chapter V*

##### *Vice-Presidents*

30. The Assembly shall have five Vice-Presidents.

31. (1) Out of the five Vice-Presidents, two shall be elected by the Assembly as a whole from among its members in the manner prescribed by the President.

(2) Chairmen elected by the Sections shall be *ex-officio* Vice-Presidents of the Assembly.

32. The President shall fix the dates and times for the nomination and election of the two Vice-Presidents to be elected under rule 31(1).

33. (1) A Vice-President shall cease to hold office as such if he ceases to be a member of the Assembly. A Vice-President may resign office by writing under his hand addressed to the President, and, on acceptance thereof by the President, the resignation shall become effective.

(2) When, owing to a vacancy in the office of an elected Vice-President of the Assembly, the election of another Vice-President becomes necessary, the President shall fix a date for the holding of the election, and the Secretary shall send to every member a notice of the date so fixed.

(3) At any time before noon on the day preceding the date so fixed, any member may nominate another member for election by delivering to the Secretary a nomination paper signed by himself as proposer and by a third member as seconder and stating—

(a) the name of the member nominated, and

(b) that the proposer has ascertained that such member is willing to serve as Vice-President, if elected.

(4) The President shall read out to the Assembly the names of the members who have been duly nominated together with those of their proposers and seconds, and, if only one member has been so nominated shall declare that member to be elected. If more than one member has been so nominated, the Assembly shall proceed to elect the Vice-President in accordance with the principle of proportional representation by means of the single transferable vote.

34. In the absence of the President, such Vice-President as the President may determine shall preside over the Assembly.

35. If the President is absent and there is no Vice-President able to preside over the Assembly, the Assembly may choose any member to perform the duties of the Chairman.

#### *Chapter VI*

##### *Office of the Constituent Assembly*

36. (1) The President shall be the head of the office of the Assembly.

(2) The Office shall consist of two branches, an Advisory Branch and an Administrative Branch.

*Delegation of President's functions.*

*Appointment of provisional Chairmen of Sections.*

*Vice-Presidents. Election.*

*Vacation of office.*

*Procedure for filling vacancy.*

*Person to preside over Assembly in absence of President.*

*Head of the Office of the Constituent Assembly.*

*Organization of office.*

(3) There shall be a Constitutional Adviser, to be appointed by the President, who shall be the head of the Advisory Branch.

(4) There shall be a full-time Secretary, to be appointed by the President, who shall be the head of the Administrative Branch, provided that if a member of the Assembly is appointed Secretary, he shall resign his office as member.

(5) There shall be under the Constitutional Adviser and the Secretary respectively such other officers and establishments as the President may, on the advice of the Staff and Finance Committee, determine.

(6) The President may make such temporary appointments as are necessary to enable the Sections to meet. Thereafter the Sections may appoint their own Secretaries subject to confirmation by the President and these shall rank as Joint Secretaries in the Office of the Assembly.

(7) The Government of each Governor's Province in a Section may appoint a Provincial Secretary subject to confirmation by the President and these Provincial Secretaries shall rank as Deputy Secretaries in the Office of the Assembly.

(8) The President shall exercise in respect of the Office of the Assembly all powers of appointment, control and discipline, provided that he may delegate to any officer such of these powers as he thinks fit and subject to such conditions as he may prescribe.

37. It shall be among the duties of the Secretary—

(a) to administer the funds placed at the disposal of the Assembly in accordance with the provisions in the budget accepted by the Assembly;

(b) to keep and maintain the records relating to the business of the Assembly; and

(c) to make arrangements for meetings of the Assembly and its Sections and the Committees.

*Chapter VII**Committees**Steering Committee.*

38. (1) A Steering Committee shall be set up for the duration of the Assembly and shall consist initially of eleven members to be elected by the Assembly in accordance with the principle of proportional representation by means of the single transferable vote.

(2) The Assembly may from time to time elect, in such manner as it may deem appropriate, eight additional members, of whom four shall be reserved for election from among the representatives of the Indian States.

(3) The President shall be an *ex-officio* member of the Steering Committee and shall be its *ex-officio* Chairman. The committee may elect a Vice-Chairman from among its members to preside over the committee in the absence of the President.

(4) The Secretary of the Assembly shall be *ex-officio* Secretary of the Steering Committee.

(5) Casual vacancies in the committee shall be filled as soon as possible after they occur by election by the Assembly in such manner as it may determine.

*Functions of the committee.*

39. (1) The committee shall—

(a) arrange the order of business for the day;



- (b) group similar motions and amendments and secure, if possible, assent of the parties concerned to composite motions and amendments;
  - (c) act as a general liaison body between the Assembly and its Office, between the Assembly and the Sections, between the Sections *inter se*, between committees *inter se*, and between the President and any part of the Assembly; and
  - (d) deal with any other matter under the rules or referred to it by the Assembly or the President.
- (2) The President may make standing orders for the conduct of the business of the Steering Committee.

40. (1) A Staff and Finance Committee shall be set up consisting of—

*Staff and  
Finance  
Committee.*

- (a) the President,
- (b) the five Vice-Presidents, and
- (c) nine other members to be elected in such manner as may be determined by the President.

(2) The functions of the committee shall be—

*Functions of  
the committee.*

- (a) to advise the President regarding the posts to be created in the Office of the Assembly, and the salaries and emoluments to be attached thereto;
- (b) to recommend to the Assembly the allowances to be paid to the officers and members of the Assembly and its committees; and
- (c) to frame a budget or supplementary budget for submission to the Assembly.

(3) The President may make standing orders for the conduct of the business of the committee.

(4) The Finance and Staff Committee shall invite the Auditor-General to audit the accounts of the Assembly.

41. A Credentials Committee shall be set up for the duration of the Assembly for the purpose of dealing with all questions relating to the validity of the title of elected or other members.

*Credentials  
Committee.*

42. The committee shall consist of five members who shall be elected by the Assembly.

(2) The committee shall have power to co-opt additional members not exceeding two in number.

(3) Casual vacancies in the committee shall be filled as soon as they occur by election by the Assembly or by co-option, as the case may be.

43. (1) Any other committee may be set up by a motion in the Assembly or a Section according as the business of the committee relates to the Assembly or the Section.

*Other  
committees.*

(2) The members of every such committee shall be elected according to the principle of proportional representation by means of the single transferable vote.

(3) The Secretary of the Assembly shall be *ex-officio* Secretary of every such committee, unless the motion by which the committee is set up otherwise provides; and the Secretary of any Section shall be *ex-officio* Secretary of every committee set up by that Section, unless the motion by which the committee is set up otherwise provides.

(4) Unless the motion by which a committee is set up otherwise provides, the committee shall appoint one of its members as Chairman who shall regulate the work of the committee.

44. The motion by which a committee is to be set up shall state the quorum necessary to constitute a meeting of the committee and the time within which the committee shall present its report.

45. The report of a committee shall be presented to the Assembly or to the Section, as the case may be, by the Chairman of the committee and a copy thereof shall be forwarded to the Office of the Constituent Assembly.

### *Chapter VIII*

#### *Budget*

#### *Budget.*

46. (1) A statement of the estimated expenditure of the Assembly shall be prepared by the Staff and Finance Committee and placed before the Assembly for approval.

(2) Supplementary statements may be similarly placed before the Assembly in accordance with the directions of the President.

### *Chapter IX*

#### *Salaries and Allowances*

47. (1) Allowances of the members shall be fixed by the Assembly on a motion approved by the Staff and Finance Committee. The committee may make standing orders providing for special allowances to members in particular cases as well as for allowances to non-members engaged on the work of the Assembly.

(2) The salaries and allowances of the servants of the Government of India or any Provincial Government or any other authority whose services are placed at the disposal of the Assembly shall be such as may be agreed upon between the Government or other authority concerned and the President acting on the advice of the Staff and Finance Committee. The salaries and allowances of all persons recruited directly shall be such as may be fixed by the President on the advice of the Staff and Finance Committee.

### *Chapter X*

#### *Doubts and disputes as to elections*

#### *Definitions.*

48. In this Chapter, unless there is anything repugnant in the subject or context,

(a) "Candidate" means a person who has been nominated as a candidate at any election or who claims that he has been so nominated or that his nomination has been improperly refused;

(b) "Returned Candidate" means a candidate whose name has been published in the appropriate Official Gazette as a duly elected member of the Assembly.

#### *Election petition.*

49. No election shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.

#### *Presentation of petition.*

50. (1) An election petition against any returned candidate may be presented to the President by any candidate or elector on the ground of any irregularity or corrupt practice :

(i) in the case of the first elections to the Assembly, within seven days from the date on which these rules come into force ;

(ii) in the case of subsequent elections within thirty days from the date on which the results of the elections are published in the appropriate Official Gazette.

(2) An election petition shall be deemed to have been presented to the President when it is delivered to the President or to any officer appointed by him in this behalf :

(a) by the person making the petition; or

(b) by a person authorised in writing in this behalf by the person making the petition; or

(c) by registered post.

51. At the time of the presentation of the petition, or, in the case of any petition presented before the date on which these rules come into force, within seven days from such date, the petitioner shall deposit the sum of rupees one thousand in cash or in Government promissory notes of equal value at the market rate of the day as security for the costs of the case.

52. (1) If the provisions of rule 50 or rule 51 are not complied with, the President shall dismiss the petition:

Provided that if the person making the petition satisfies the President that sufficient cause existed for his not presenting the petition within the period prescribed in rule 50, the President shall have discretion to condone the failure to comply with that rule.

(2) If the petition is not dismissed under the preceding sub-rule, the President shall, if he is satisfied that sufficient grounds exist for such action, refer the petition to the Credentials Committee.

53. The Credentials Committee shall, with due despatch, inquire into the allegations made in the petition and, subject to the provision of the next succeeding rule, submit a report to the President.

54. The Credentials Committee may, if they think fit, recommend to the President that an election tribunal be appointed to inquire into the petition.

55. Where such a recommendation has been made, the President shall appoint an election tribunal consisting of one or more than one person to inquire into the petition.\*

56. On the conclusion of the inquiry, the election tribunal shall make a report to the President.

57. On receipt of the report of the Credentials Committee or the election tribunal, as the case may be, the President shall issue orders in accordance therewith.

#### *Chapter XI*

##### *Consideration of draft Constitutions*

58. (1) The Assembly shall, before finally settling the new Union constitution, give an opportunity to the several Provinces

*Deposit of  
Security.*

*Reference to  
Credentials  
Committee.*

*Inquiry into  
petition.*

*Consideration  
of draft Con-  
stitutions.*

\*Election petitions in India are inquired into by special tribunals who are given powers by special legislation. Until there is similar legislation for the Constituent Assembly also it will not be possible to have similar tribunals to deal with disputes relating to elections to the Constituent Assembly. An Ordinance for the purpose has been drafted and kept ready.

and States through their legislatures to formulate, within such time as it may fix, their views upon the resolutions of the Assembly outlining the main features of the constitution or, if the Assembly so decides, upon the preliminary draft of the constitutions.

(2) Before the constitution of any Province is finally settled, an opportunity shall be given to it to formulate, within such time as may be fixed for the purpose, its views—

(a) upon the resolutions outlining the main features of the constitution or, if the majority of the representatives of the Province so desire, upon the preliminary draft of such constitution, and

(b) upon the preliminary decision of the Section concerned, as to whether a Group constitution shall be set up for the Provinces included in the Section and, if so, with what provincial subjects the Group should deal.

#### Chapter XII

#### Miscellaneous

*Regulations regarding elections on the principle of proportional representation. Power of Assembly or any committee to act notwithstanding vacancies. Amendment of rules.*

59. All elections in the Assembly to be held on the principle of proportional representation by means of the single transferable vote shall be conducted *mutatis mutandis* in accordance with the regulations in force in this behalf in the Indian Legislative Assembly.

60. Subject to the requirement of a quorum prescribed by or under these rules, the Assembly and any committee set up by the Assembly shall have power to act notwithstanding any vacancy in the membership thereof.

61. No new rule shall be made nor shall any of these rules be amended or deleted except after a reference of the proposal so to make, amend, or delete the rule to the Steering Committee, which shall report to the Assembly within two weeks of the receipt of the reference.

62. Save as otherwise provided in these rules, the provisions thereof shall apply *mutatis mutandis* to the Sections and the committees of the Assembly. The Sections may make standing orders not inconsistent with these rules.

63. Where, in the opinion of the President, any difficulty arises in the carrying out of these rules, or in respect of any matter for which no provision is made in these rules, the President may, notwithstanding anything contained therein, make such provision as he thinks fit for the purpose of removing the difficulty.

*Rules of Procedure for Sections.*

*Removal of difficulties.*

# CONSTITUENT ASSEMBLY RULES OF PROCEDURE AND STANDING ORDERS

As amended upto October 15, 1949

*[On December 21, 1946, K. M. Munshi presented to the Constituent Assembly the Report of the Committee on the Rules of Procedure. After clause by clause consideration of the Report for two days the Assembly finally adopted the Rules recommended by the committee with certain amendments. The Rules were further amended from time to time and four editions were issued, the fourth edition having been issued in June 1949. The most important amendments were necessitated as a result of (a) partition of India and its effect on the Constituent Assembly, and (b) entry of the representatives of the Princely States. A few amendments were made even after June 1949. The text of the Rules of Procedure along with the Standing Orders, as amended upto October 15, 1949, are reproduced below.]*

## (I) RULES OF PROCEDURE

### CHAPTER I

#### *Definitions*

- |   |                              |
|---|------------------------------|
| 1. These rules shall be called the Constituent Assembly Rules. They shall come into force at once.  | <i>Date of Commencement.</i> |
| 2. In these rules, unless the context otherwise requires—   | <i>Definitions.</i>          |
| (a) "Assembly" means the Constituent Assembly of India;   |                              |
| (b) "Chairman" means the person who for the time being presides over the Assembly or any of its committees;   |                              |
| (c) "Member" means a member of the Assembly;  |                              |
| (cc) "Minister" means a member of the Council of Ministers of the Governor-General of India;  |                              |
| (d) "President" means the person elected by the Assembly at its preliminary session as the Chairman under the provisions of the statement and his successors in office; |                              |

- (e) "Secretary" means the Secretary of the Assembly;  
 (f) "Statement" means the Statement of the Cabinet Mission to India and H. E. the Viceroy, dated May 16, 1946.

## CHAPTER II

### *Admission of Members and Vacation of Seats*

*Admission of Members.*

3. No member shall take his seat or vote in the Assembly until he has signed his name in the Register kept for the purpose at a meeting of the Assembly or, if the Assembly is not in session, in the presence of the President :

Provided that every Minister who is not a member of the Assembly shall have the right to speak in and otherwise to take part in the proceedings of the Assembly and any committee thereof of which he may be named a member, but shall not be entitled to vote.

*Resignation.*

4. (1) A member may resign his office by writing under his hand addressed to the President.

(2) On the acceptance of the resignation by the President the seat shall become vacant.

*Casual vacancy in the office of a member representing a Province.*

5. (1) When a vacancy occurs by reason of death, resignation or otherwise in the office of a member of the Assembly representing a Province other than Delhi and Ajmer-Merwara, the President shall notify the vacancy and call upon the constituency concerned to elect a person for the purpose of filling the vacancy :

Provided that in the case of any such vacancy as is mentioned in clause (3) of article 379 of the Constitution of India, a notification under this sub-rule calling upon the constituency concerned to elect a person for the purpose of filling the vacancy may be issued notwithstanding that such vacancy has not occurred.

(2) For the purpose of filling any such vacancy as is referred to in sub-rule (1), the President shall ordinarily make a request in writing to the Speaker of the Provincial Legislative Assembly concerned, or, as the case may be, the President of the Coorg Legislative Council, for the election of a person to fill the vacancy as soon as may reasonably be practicable.

(3) Where the vacancy is in the seat of a member elected by a Provincial Legislative Assembly, the seat shall be filled by election by the members of the said Assembly, and at any such election every member of that Assembly shall be entitled to participate and vote.

(4) Where any such seat as is referred to in sub-rule (3) was, immediately before it became vacant, held by a person belonging to the Scheduled Castes or to the Muslim or the Sikh community, no person shall be qualified to be chosen to fill that seat unless he belongs to the Scheduled Castes or to the Muslim or the Sikh community, as the case may be.

(5) Where under sub-rule (4) a vacancy is to be filled by a person belonging to the Scheduled Castes or to the Muslim or the Sikh community, the notification to be issued under sub-rule (1) or the request to be made under sub-rule (2) of this rule for the filling of such vacancy shall specify that the person to fill that seat shall belong to the Scheduled Castes or to the Muslim or the Sikh community, as the case may be.

(6) At an election to fill more vacancies than one, a member of the Provincial Legislative Assembly shall have as many votes as there are seats to be filled but shall not give more than one vote to any one candidate.

(7) Only an Indian, that is to say, a person domiciled in any part of India, which is participating or is entitled to participate in the Assembly may be nominated for election as a member of the Constituent Assembly.

(8) As soon as may be after the receipt of the request mentioned in sub-rule (2), the Speaker of the Provincial Legislative Assembly concerned—

(a) shall appoint by suitable notification a person to be the Returning Officer for the election and may also in like manner appoint any person who may, subject to the control of the Returning Officer, perform all or any of the functions of the Returning Officer at any such election, and

(b) shall also appoint by suitable notification—

(i) a date, not later than fifteen days after the date of notification, for the nomination of candidates;

(ii) a further date, not later than the third day after the first mentioned date, for the scrutiny of nominations;

(iii) a further date, not later than two days after scrutiny, for withdrawal of his candidature by a candidate; and

(iv) a further date, not later than twenty-one days from the date fixed for withdrawal, on which a poll shall, if necessary, be taken.

(9) The Speaker of the Provincial Legislative Assembly concerned shall, if a poll is taken, by suitable notification, fix the hour at which the poll shall commence and the hour at which it shall close on the date fixed under sub-clause (iv) of clause (b) of sub-rule (8) and the place at which the poll shall be taken.

(10) The votes shall be given by ballot and in person :

Provided that, when the Provincial Assembly is not in session, votes may, at the option of the voter, be given in person or by registered post :

Provided further that no votes shall be given by proxy.

(11) The ballot paper shall contain the names of the validly nominated candidates arranged alphabetically and votes shall be recorded by placing a mark on the ballot paper opposite the name of the candidate, or, when more vacancies than one are to be filled, by placing marks on the ballot paper, subject to the provisions of sub-rule (6), opposite the names of the candidates, for whom the voter desires to vote.

(12) After the votes are duly counted, the result of the election shall be declared and reported to the President.

(13) Where a poll is taken at an election to fill more vacancies than one and the vacancies to be filled include a vacancy or vacancies to be filled by a person or persons belonging to the Scheduled Castes or to the Muslim or the Sikh community, the Returning Officer shall, after the counting of votes has been completed, out of the total number of candidates for all the vacancies first declare elected to the vacancy or vacancies to be filled by a candidate or candidates belonging to the Scheduled Castes or the Muslim or the Sikh community, the candidate or candidates belonging to the Scheduled Castes, or the Muslim or the Sikh community, as the case may be, to whom the largest number of valid votes has been given, and then out of the remaining candidates he shall declare elected to the vacancy or vacancies which are not to be so filled the candidate or candidates to whom the largest number of valid votes has been given.

(14) Where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning Officer and in such manner as he may determine.



(15) Save as otherwise provided in these rules, the elections to the Constituent Assembly shall be held, *mutatis mutandis*, in accordance with the rules and regulations for the time being in force in regard to elections held by the Provincial Legislative Assembly, and, where no such rules and regulations exist, in accordance with the standing orders that may be made in this behalf by the President of the Constituent Assembly.

Where any such rules or regulations exist, it shall be competent for the Speaker of the Provincial Legislative Assembly concerned to make, with the previous approval of the President, such modifications therein as may be necessary for the purposes of this sub-rule.

(16) The foregoing rules shall apply in relation to Coorg, subject to the following modifications, namely—

(a) that for references to the Provincial Legislative Assembly there shall be substituted references to the Coorg Legislative Council, and for the references to the Speaker of the Provincial Legislative Assembly there shall be substituted references to the President of the Coorg Legislative Council, and

(b) that instead of the members of the Provincial Legislative Assembly taking part in the election, the non-official members of the Coorg Legislative Council shall take part in it.

(17) (a) If any vacancy occurs by reason of death, resignation, or otherwise in the office of a member representing Delhi or Ajmer-Merwara in the Constituent Assembly, the President shall notify the vacancy and shall call upon the Chief Commissioner of Delhi or Ajmer-Merwara, as the case may be, to take steps to hold a bye-election to fill the vacancy.

(b) The bye-election shall be held, as nearly as may be, in accordance with the procedure prescribed by the Legislative Assembly Electoral Rules, as in force on August 1, 1947, for the election of a member to represent the Delhi or as the case may be, the Ajmer-Merwara constituency of the Indian Legislative Assembly.

5A. (1) When a vacancy occurs by reason of death, resignation or otherwise in the office of a member of the Assembly representing an Indian State or more than one Indian State specified in column 1 of the Annexure to the Schedule to these Rules, the President shall notify the vacancy and make a request in writing to the authority

*Casual vacancy in the office of a member representing an Indian State or more than one such State.*

specified in the corresponding entry in column 3 of that Annexure to proceed to fill the vacancy as soon as may reasonably be practicable by election or nomination, as the case may be :

Provided that in the case of any such vacancy as is mentioned in clause (3) of article 379 of the Constitution of India, a notification may be issued and a request may be made under this rule for the purpose of filling the vacancy notwithstanding that such vacancy has not occurred :

Provided further that in making a request to fill a vacancy by election under this rule, the President may also request that the election be completed within such time as may be specified by him.

(2) For the purpose of filling any such vacancy as is referred to in sub-rule (1) in the office of a member of the Assembly representing Indian States specified in column 1 of Part II of the Annexure to the Schedule to these Rules, the provisions of Rule 5 of these Rules shall apply as if such vacancy were a vacancy in the office of a member of the Assembly representing the Province specified in the corresponding entry in column 3 of that Part.

### CHAPTER III

#### *The President*

#### *Election.*

6. (1) The President of the Assembly shall be elected by the Assembly from among its members.

(2) The President shall cease to hold office as such if he ceases to be a member of the Assembly.

#### *Vacation of Office.*

(3) The President may resign office by writing under his hand addressed to the Secretary for communication to the Assembly. If the Assembly is in session, the resignation shall be read out to the members; if the Assembly is not in session, it shall be published in the *Gazette of India*; upon being so read out or published, as the case may be, it shall become effective.

#### *Procedure for filling vacancy.*

7. (1) When, owing to a vacancy in the office of President of the Assembly, the election of a President becomes necessary, one of the Vice-Presidents appointed in this behalf by the Steering Committee, shall fix a date for the holding of the election and the Secretary shall send to every member notice of the date so fixed.

(2) At any time before noon on the day preceding the date so fixed, any member may nominate another member for election by delivering to the Secretary a nomination paper signed by himself as proposer and by a third

member as seconder and stating—

- (a) the name of the member nominated, and
- (b) that the proposer has ascertained that such member is willing to serve as President if elected.

(3) Any member who has been nominated may withdraw his candidature at any time before the Assembly proceeds to hold the election.

(4) On the date fixed for an election, the Vice-President shall read out to the Assembly the names of the members who have been duly nominated and have not withdrawn their candidature together with those of their proposers and seconders, and, if there is only one such member, shall declare that member to be duly elected. If there is more than one such member, the Assembly shall proceed to elect the President by ballot.

(5) Where there are only two candidates for election, the candidate who obtains at the ballot the larger number of votes shall be declared elected. If they obtain an equal number of votes, the election shall be by the drawing of lots.

(6) Where more than two candidates have been nominated and at the first ballot no candidate obtains more votes than the aggregate votes obtained by the other candidates, the candidate who has obtained the smallest number of votes shall be excluded from the election, and balloting shall proceed, the candidate obtaining the smallest number of votes at each ballot being excluded from the election, until one candidate obtains more votes than the remaining candidate or than the aggregate votes of the remaining candidates, as the case may be, and such candidate shall be declared elected.

(7) Where at any ballot any of three or more candidates obtain an equal number of votes and one of them has to be excluded from the election under sub-rule (6) the determination, as between the candidates whose votes are equal of the candidate who is to be excluded shall be by the drawing of lots.

8. (1) The deliberations of the Assembly shall be presided over by the President, when he is present.

*Functions of the President.*

(2) The President shall be the guardian of the privileges of the Assembly, its spokesman and representative and its highest executive authority.

9. The President may, subject to such conditions as he may prescribe, delegate to a Vice-President such of his powers and duties as he may think fit.

*Delegation of President's Functions.*

## CHAPTER IV

### *Vice-Presidents*

*Vice-Presidents.* 10. The Assembly shall have two Vice-Presidents who shall be elected by the Assembly from among its members in such manner as the President may prescribe.

11. The President shall fix the date and time for the nomination and election of each of the two Vice-Presidents to be elected under rule 10.

*Vacation of Office.* 12. (1) A Vice-President shall cease to hold office as such if he ceases to be a member of the Assembly. A Vice-President may resign office by writing under his hand addressed to the President, and, on acceptance thereof by the President, the resignation shall become effective.

*Procedure for filling vacancy.* (2) Any vacancy in the office of a Vice-President of the Assembly shall be filled by election by the Assembly from among its members at such time and in such manner as the President may prescribe.

*Person to preside over Assembly in absence of President.* 13. In the absence of the President, such Vice-President as the President may determine shall preside over the Assembly.

14. If the President is absent and there is no Vice-President present to preside over the Assembly, the Assembly may choose any member to perform the duties of the Chairman.

## CHAPTER V

### *Office of the Constituent Assembly*

*Head of the Office of the Constituent Assembly.* 15. (1) The President shall be the head of the Office of the Assembly.

*Organisation of Office.* (2) The Office shall consist of two branches, an Advisory Branch and an Administrative Branch.

(3) There shall be a Constitutional Adviser, to be appointed by the President, who shall be the head of the Advisory Branch.

(4) There shall be a full-time Secretary, to be appointed by the President, who shall be the head of the Administrative Branch.

(5) There shall be under the Constitutional Adviser and the Secretary respectively such other officers and establishments as the President may, on the advice of the Staff and Finance Committee, determine.

(6) The President may, in consultation with the Government of any Governor's Province, appoint a Secretary for the Province, who shall rank as a Deputy Secretary in the Office of the Assembly.

(7) Any member of the Assembly who becomes the Secretary or a Deputy Secretary under this rule shall thereupon be deemed to have vacated his office as member.

(8) The President shall exercise in respect of the Office of the Assembly all powers of appointment, control and discipline, provided that he may delegate to any officer such of these powers as he thinks fit and subject to such conditions as he may prescribe.

16. It shall be among the duties of the Secretary—

- (a) to administer the funds placed at the disposal of the Assembly in accordance with the provisions in the budget accepted by the Assembly;
- (b) to keep and maintain the record relating to the business of the Assembly; and
- (c) to make arrangements for meetings of the Assembly and the committees.

#### CHAPTER VI

##### *Business of the Assembly*

17. (1) The business of the Assembly means the business conducted—

- (i) in the Assembly itself;
- (ii) in the committee of the whole Assembly;
- (iii) in the Advisory Committee referred to in paragraph 20 of the Statement;
- (iv) in the Steering Committee;
- (v) in the Staff and Finance Committee;
- (vi) in the Credentials Committee;
- (vii) in the House Committee; and
- (viii) in such other committees or sub-committees as may be set up by the Assembly or the Advisory Committee or other committees.

(2) The business of the Assembly shall be conducted in New Delhi unless the Assembly resolves otherwise.

(3) The conduct of the business of the Assembly and the procedure thereof shall be regulated by the rules and standing orders and the resolutions of the Assembly and by the rulings given from time to time by the Chairman.

18. The Assembly shall not be dissolved except by a resolution assented to by at least two-thirds of the total number of members of the Assembly.

19. The Assembly shall sit on such dates as the President having regard to the state of business of the Assembly, may from time to time direct:

*Business.*

*Dissolution.*

*Dates of meetings.*

Provided that the President shall not adjourn the session for more than three days at a time except with the consent of the Assembly :

Provided further that the Chairman may adjourn the session to the next working day.

*Committee of  
the whole  
Assembly.  
Time of meet-  
ing.*

20. The Assembly may resolve itself into a committee of the whole Assembly.

21. Meeting of the Assembly shall commence at 11 A.M. except as otherwise resolved by the Assembly or directed by the Chairman.

*Quorum.*

22. (1) The presence of at least one-third of the whole number of members shall be necessary to constitute a meeting of the Assembly or any of its committees.

(2) If the Chairman, on a count being demanded by a member at any time during a meeting, ascertains that one-third of the whole number of members are not present, he shall adjourn the Assembly or the committee, as the case may be, for fifteen minutes, and if on a fresh count being taken after that period it is found that there is still no quorum, he shall adjourn the Assembly or the committee, as the case may be, till the next day on which it ordinarily sits.

*Arrangement of  
business.*

23. (1) A list of business for the day shall be prepared by the Secretary and a copy thereof shall be supplied for the use of every member before the commencement of the business of the day. The business thus prepared shall be called the "Orders of the Day".

(2) Save as otherwise provided in these rules, no business not included in the Orders of the Day, shall be transacted at any meeting without the leave of the Chairman.

24. The business of the Assembly shall be brought before it or its committees by means of—

(a) a motion;

(b) a report of a committee;

(c) an amendment to a motion or an amendment to an amendment.

*Notice of  
Motion.*

25. (1) Unless otherwise directed by the Chairman, notice of every motion, accompanied by a copy of the motion shall be given at least three clear days before the day on which the motion is to be moved in the Assembly.

(2) Every notice required by these rules shall be given in writing addressed to the Secretary and signed by the member giving notice and shall be left at the Notice Office, which shall be open for the purpose between the hours of 11 A.M. and 5 P.M. except on Sundays and other public holidays.

(3) Notices left when the office is closed shall be treated as given on the next open day.

(4) Where three clear days' notice of a motion has been given, the Secretary shall send a copy of the motion to the members at least two clear days before the day on which it is to be moved; and in other cases, he shall send a copy to them as soon as possible after notice has been received.

(5) No notice shall be required—

- (a) for a motion for an adjournment of the Assembly;
- (b) for a motion for adjournment of the consideration of the motion which is under discussion;
- (c) for a motion for reference back to a committee;
- (d) for a motion that the Assembly do resolve itself into committee of the whole; or
- (e) for a motion which, in the opinion of the Chairman, is of urgent and vital importance.

26. There shall be no motion for an adjournment of the Assembly for the purpose of discussing any matter not included in the Orders of the Day, or not connected with the work of the Assembly.

*Motions of adjournment.*

27. The members shall sit in such order as the President may direct.

*Seating of Members.*

28. A member desiring to make any observation on any matter before the Assembly shall only speak when called upon to do so by the Chairman and shall rise when he speaks, except as permitted by the Chairman. If, at any time, the Chairman rises, the member shall take his seat and cease speaking.

*Member to rise when speaking.*

29. (1) In the Assembly, business shall be transacted in Hindustani (Hindi or Urdu) or English, provided that the Chairman may permit any member who cannot adequately express himself in either language to address the Assembly in his mother tongue. The Chairman shall make arrangements for giving the Assembly, whenever he thinks fit, a summary of the speech in a language other than that used by the member and such summary shall be included in the record of the proceedings of the Assembly.

*Language in the Assembly.*

(2) The official records of the proceedings of the Assembly shall be kept in Hindustani (both Hindi and Urdu) and English.

30. (1) A matter requiring the decision of the Assembly shall be brought forward by means of a question put by the Chairman.

*Motions.*

(2) In all matters requiring to be decided by the members of the Assembly, the Chairman shall exercise a vote only in the case of an equality of votes.

(3) Votes may be taken by voices or division and shall be taken by division if any member so desires.

(4) The Chairman shall determine the method of taking vote by division.

(5) The result of a division shall be announced by the Chairman and shall not be challenged.

*Amendments.*

31. (1) An amendment must be relevant to the motion to which it is proposed.

(2) An amendment may not be moved which has the effect of being the negative of the original motion.

(3) Except as permitted by the Chairman—

(a) notice of any amendment to a motion must be given at least one clear day before the motion is to be moved in the Assembly, and

(b) notice of any amendment to an amendment must be given before the Assembly meets for the day on which the motion is to be moved.

(4) The Chairman may disallow any amendment which he considers to be frivolous or dilatory.

(5) The Chairman may put amendments to the vote in any order he may choose.

*Reopening of decisions.*

32. No question which has once been decided by the Assembly shall be reopened except with the consent of at least one-fourth of the members present and voting.

*Closure.*

33. Any time after a motion has been made, any member may move "that the question be now put" and unless it appears to the Chairman that the motion is an infringement of the right of reasonable debate, the Chairman shall put the motion, "that the question be now put"; and if the motion is accepted, no further discussion on the original motion shall be permitted except for a reply by the member who made the original motion.

*Decisions on points of order.*

34. In all matters relating to procedure or the conduct of business of the Assembly, the decision of the Chairman shall be final.

*Decisions on the report of the Advisory Committee.*

35. It shall be the function of the Advisory Committee referred to in paragraphs 19 and 20 of the statement to initiate and consider proposals and to make a report to the Assembly upon fundamental rights, clauses for the protection of minorities and administration of tribal and excluded areas; and the decisions of the Assembly upon such



report shall be incorporated in the appropriate part of the constitution.

36. The Chairman of the Assembly after having called the attention of the Assembly to the conduct of a member who persists in irrelevance or in tedious repetition, either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech, and the member shall thereupon, resume his seat.

*Irrelevance or repetition.*

37. (1) The Chairman shall preserve order and shall have all powers necessary for the purpose of enforcing his decisions on all points of order.

*Power to preserve order.*

(2) The Chairman may, in the case of grave disorder arising in the Assembly, suspend any sitting for a period not exceeding three days.

38. (1) The admission of persons other than members to the Assembly Chamber and its galleries during the sittings of the Assembly shall be regulated in accordance with the orders of the Chairman :

*Admission to the Assembly Chamber.*

Provided that when a meeting is held *in camera* no persons other than members and the officers and staff on duty shall be admitted inside the Assembly Chamber or its galleries.

(2) The meetings of the Assembly may, in the discretion of the Chairman, be held *in camera*.

(3) The proceedings of all committees shall be conducted *in camera*.

(4) The Secretary shall cause full reports of the proceedings of the Assembly to be printed and supplied to all members:

Provided that, where any meeting is held *in camera* such reports shall be marked confidential and for the personal use of the members only.

(5) Where any meeting of the Assembly is held *in camera*, the Chairman may authorise a summary of the proceedings to be issued to the press.

#### CHAPTER VI-A

#### *Legislation for making provision as to the Constitution of India*

38-A. (1) Any member desiring to propose any amendment to the Indian Independence Act, 1947, or any order, rule, regulation or other instrument made thereunder, or to the Government of India Act, 1935, as adapted under the said Act, may move for leave to introduce a Bill for

*Notice of motion for leave to introduce a Bill.*

the purpose, shall give notice of his intention, and shall, together with the notice, submit a copy of the Bill and a full Statement of Objects and Reasons.

(2) The period of notice of a motion for leave to introduce a Bill under this rule shall be fifteen days, unless the President allows the motion to be made at shorter notice.

(3) In this rule, the reference to the Government of India Act, 1935, includes reference to any enactment amending or supplementing that Act, and, in particular, reference to the India (Central Government and Legislature) Act, 1946.

*Motion for leave to introduce.*

38-B. If a motion for leave to introduce a Bill is opposed, the President, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may without further debate put the question.

*Publication after introduction.*

38-C. As soon as may be after the Bill has been introduced it shall, unless the President otherwise directs, be published in the *Gazette of India*.

*Motions after introduction.*

38-D. At the time when the Bill is introduced, or on some subsequent occasion, the member who has introduced the Bill may make one of the following motions in regard to the Bill, namely :—

(a) that it be taken into consideration by the Assembly either at once or on some future day to be then specified; or

(b) that it be referred to a Select Committee :

Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members and that any member may object to any such motion being made, unless copies of the Bill have been so made available for three days before the day on which the motion is made, and such objection shall prevail unless the President in his discretion allows the motion to be made.

*Discussion of principles of Bills.*

38-E. (1) On the day on which any such motion is made, or on any subsequent day to which the discussion thereof is postponed, the principles of the Bill and its general provisions may be discussed, but the details of the Bill shall not be discussed further than is necessary to explain its principles.

(2) At this stage, no amendments to the Bill may be moved, but if the member who has introduced the Bill moves that his Bill be taken into consideration, any member

may move as an amendment that the Bill be referred to a Select Committee.

38-F. (1) The member who has introduced the Bill shall be a member of the Select Committee, and it shall not be necessary to include his name in any motion for appointment of such a committee.

*Select Committees.*

(2) The other members of the committee shall be appointed by the Assembly when a motion that the Bill be referred to a Select Committee is made.

(3) The committee shall choose a member of the committee to be their Chairman, and in his absence may choose another member of the committee to preside and exercise the powers of the Chairman.

(4) The Chairman shall not vote in the first instance, but, in the case of an equality of votes shall have a casting vote.

(5) The Select Committee may hear expert evidence and representatives of special interests affected by the measure before them.

38-G. (1) At the time of the appointment by the Assembly of the members of a Select Committee the number of members whose presence shall be necessary to constitute a meeting of the committee shall be fixed by the Assembly.

*Quorum of Select Committees.*

(2) If at the time fixed for any meeting of the Select Committee, or if at any time during any such meeting, the quorum of members fixed by the Assembly is not present, the Chairman of the committee shall either suspend the meeting until a quorum is present or adjourn the committee to some future day.

(3) Where the Select Committee has been adjourned in pursuance of sub-rule (2) on two successive days fixed for the meeting of the committee, the Chairman shall report the fact to the Assembly.

38-H. (1) When a Bill has been referred to a Select Committee, the committee shall make a report thereon.

*Reports by Select Committees.*

(2) Reports may be either preliminary or final.

(3) If any member of a Select Committee desires to record a minute of dissent on any point, he must sign the report stating that he does so subject to his minute of dissent, and must at the same time hand in his minute.

38-I. (1) The report of the Select Committee on a Bill shall be presented to the Assembly by the Chairman of the committee.

*Presentation of report.*

(2) In presenting a report, the Chairman shall, if he makes any remarks, confine himself to a brief statement of fact, but there shall be no debate at this stage.

*Printing and  
Publication of  
reports.*

38-J. The Secretary shall cause every report of a Select Committee to be printed, and a copy thereof shall be made available for the use of every member of the Assembly. The report, with the amended Bill, shall, unless the President otherwise directs, be published in the *Gazette of India*.

*Procedure after  
presentation of  
report.*

38-K. (1) After the presentation of the final report of a Select Committee on a Bill, the member who has introduced the Bill may move—

(a) that the Bill as reported by the Select Committee be taken into consideration :

Provided that any member of the Assembly may object to its being so taken into consideration if a copy of the report has not been made available for the use of members for three days, and such objection shall prevail, unless the President in his discretion allows the report to be taken into consideration; or

(b) that the Bill as reported by the Select Committee be recommitted either—

(i) without limitation; or

(ii) with respect to particular clauses or amendments only; or

(iii) with instructions to the Select Committee to make some particular or an additional provision in the Bill.

(2) If the member who has introduced the Bill moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be re-committed.

*Special procedure regarding introduction of the Draft Constitution of India.*

38-L. (1) The provisions of rules 38A to 38K shall not apply to the Draft Constitution of India settled by the Drafting Committee appointed in pursuance of the resolution of the Assembly dated the 29th day of August, 1947 (hereinafter referred to as 'the Constitution'), and any member may introduce the constitution after giving notice of his intention and it shall not be necessary to move for leave to introduce the constitution.

(2) The period of notice for introducing the constitution under this rule shall be five days unless the President allows the constitution to be introduced at shorter notice.

38-M. When the constitution is introduced the member introducing the constitution may move that it be taken into consideration by the Assembly:

*Motion after introduction of the constitution.*

Provided that no such motion shall be made until after copies of the constitution have been made available for the use of members, and that any member may object to any such motion being made unless copies of the constitution have been made available for three days before the date on which the motion is made, and such objection shall prevail, unless the President in his discretion allows the motion to be made.

38-N. When a motion that the constitution or a Bill be taken into consideration has been carried, any member may propose an amendment of the constitution or the Bill, as the case may be.

*Proposal of amendments.*

38-O. (1) If notice of a proposed amendment has not been given two clear days before the day on which the constitution or the Bill, as the case may be, is to be considered, any member may object to the moving of the amendment, and such objection shall prevail, unless the President in his discretion allows the amendment to be moved.

*Notice of amendments.*

(2) The Secretary shall, if time permits, cause every notice of a proposed amendment to be printed, and a copy thereof to be made available for the use of every member.

38-P. (1) Amendments shall ordinarily be considered in the order of the clauses of the constitution or the Bill to which they respectively relate; and in respect of any such clause a motion shall be deemed to have been made "That this clause stand part of the constitution" or "That this clause stand part of the Bill", as the case may be.

*Order of amendments.*

(2) The President shall have the power to disallow amendments which seek to make merely verbal, grammatical or formal changes.

(3) The President shall also have the power to select for consideration and voting by the House the more appropriate or comprehensive amendment or amendments out of the amendments of similar import and any such amendment not so selected may, unless withdrawn, be deemed to have been moved and may be put to the vote without discussion.

38-Q. Notwithstanding anything in these rules, it shall be in the discretion of the President, when a motion that the constitution or a Bill be taken into consideration has

*Submission of the constitution or Bill clause by clause.*

been carried, to submit the constitution or any part of the constitution (or, as the case may be, the Bill or any part of the Bill), to the Assembly clause by clause. When this procedure is adopted, the President shall call each clause separately and, when the amendments relating to it have been dealt with, shall put the question: "That this clause (or, as the case may be, that this clause as amended) stand part of the constitution (or, as the case may be, the Bill)."

*Revision of the constitution by the Drafting Committee and consideration of the amendments recommended by them.*

38-R. (1) When a motion that the constitution be taken into consideration has been carried and the amendments to the constitution moved have been considered, the President shall refer the constitution as amended to the Drafting Committee referred to in sub-rule (1) of rule 38-L with instructions to carry out such renumbering of the articles, clauses and sub-clauses, such revision of punctuation and such revision and completion of the marginal notes thereof as may be necessary, and to recommend such formal or consequential or necessary amendments to the constitution as may be required.

(2) After the constitution has been referred to the Drafting Committee, the report of the committee shall be presented to the Assembly by the Chairman or any other member of the Drafting Committee and thereafter the Chairman or other member of the committee may move that the amendments recommended by the committee in the constitution so referred to them be taken into consideration:

Provided that no such motion shall be made until after the report of the Drafting Committee together with the copies of the constitution as revised by them has been made available for the use of members and that any member may object to any such motion being made unless the report and the copies of the constitution as so revised have been made available five clear days before the date on which the motion is made, and such objection shall prevail unless the President in his discretion allows the motion to be made.

(3) While making any motion referred to in sub-rule (2), the mover shall confine himself to an explanatory statement and at this stage there shall be no debate, and the President may, after such statement has been made, put the question.

(4) After the motion referred to in sub-rule (2) has

been carried, any member may move an amendment which is either formal or consequential upon an amendment recommended in any provision of the constitution by the Drafting Committee after the constitution was referred to them under sub-rule (1) but shall not be allowed to move any other amendment.

(5) If notice of a proposed amendment has not been given two clear days before the day on which the motion referred to in sub-rule (2) is to be taken up for consideration, any member may object to the moving of the amendment, and such objection shall prevail unless the President in his discretion allows the amendment to be moved.

(6) Notwithstanding anything in these rules, all the amendments recommended by the Drafting Committee, after the constitution was referred to them under sub-rule (1), shall be deemed to have been moved, and it shall not be necessary for the President to put each of those amendments separately to vote.

(7) The provisions of sub-rules (2) and (3) of rule 38-P shall apply to every amendment of which notice has been given under sub-rule (5), and notwithstanding anything in these rules it shall be in the discretion of the President to disallow any amendment of which notice has been so given.

(8) The President shall allot not more than two days for the consideration by the Assembly of all amendments after the motion referred to in sub-rule (2) has been carried and shall, at the time appointed by him for the close of the sitting of the Assembly on the last of the allotted days, forthwith put every question necessary to dispose of all the outstanding matters in connection with those amendments, and in the case of amendments recommended by the Drafting Committee as such, he shall put only the question that the amendments so recommended be made or that the amendments so recommended as modified by any amendment or amendments adopted by the Assembly be made, as the case may be.

(9) For the purpose of bringing to a conclusion any proceedings relating to such amendments on the last of the allotted days, the President shall have power to select the amendments to be proposed.

38-RR. (1) When the amendments to the constitution referred to the Drafting Committee under sub-rule (1) of

*Passing of  
the constitution.*

rule 38-R have been considered, any member may move that the constitution as settled by the Assembly be passed, and to a motion so made no further amendment shall be allowed to be moved.

(2) The President may fix a time-limit for speeches during the debate on a motion made under sub-rule (1).

(3) The President may in relation to any proceedings in connection with the passing of the constitution under rule 38-R or this rule relax or suspend any of these rules.

*Passing of  
Bills.*

38-S. (1) Where a motion that a Bill be taken into consideration has been carried and no amendment to the Bill is made, the member who has introduced the Bill may at once move that the Bill be passed.

(2) If any amendment of the Bill is made, any member may object to any motion being made on the same day that the Bill be passed, and such objection shall prevail, unless the President in his discretion allows the motion to be made:

Provided that the President may, before allowing the motion to be made, refer the Bill as amended either to the Drafting Committee referred to in sub-rule (1) of rule 38-L or to another *ad hoc* committee consisting of members of the Assembly appointed by him with instructions to carry out such renumbering of the clauses, such revision of punctuation and such revision and completion of the marginal notes thereof as may be necessary and to recommend such formal or consequential amendments to the Bill as may be required.

(3) Where the objection prevails, a motion that the Bill be passed may be brought forward on any future day.

(4) When the Bill has been so referred to the Drafting Committee or the committee appointed under the proviso to sub-rule (2) and the committee has presented its report, any member may move that the Bill as revised by the committee be passed.

(5) To a motion made under sub-rule (2), sub-rule (3) or sub-rule (4), no amendment may be moved which is not either formal or consequential upon an amendment made after the Bill was taken into consideration.

*Withdrawal of  
Bills.*

38-T. The member who has introduced a Bill may at any stage of the Bill move for leave to withdraw the Bill,



and if such leave is granted, no further motion may be made with reference to the Bill.

38-U. When the constitution is passed by the Assembly, the President shall authenticate the same by affixing his signature thereto.

*Authentication of the constitution by the President.*

38-V. When a Bill referred to in rule 38-A is passed by the Assembly, the President shall authenticate the same by affixing his signature thereto. When the Bill has been so authenticated it shall become an Act and shall be published in the *Gazette of India*.

*Authentication of Bill by the President and publication thereof as Act.*

38-W. In this Chapter (excepting in rules 38-U and 38-V thereof), the expression 'President' includes any person for the time being presiding over the Assembly.

*Definition.*

## CHAPTER VII

### *Committees*

39. (1) A Steering Committee shall be set up for the duration of the Assembly and shall consist initially of eleven members (other than the President) to be elected by the Assembly in accordance with the principle of proportional representation by means of the single transferable vote.

*Steering Committee.*

(2) The Assembly may from time to time elect, in such manner as it may deem appropriate, eight additional members, of whom four shall be reserved for election from among the representatives of the Indian States.

(3) The President shall be an *ex-officio* member of the Steering Committee and shall be its *ex-officio* Chairman. The committee may elect a Vice-Chairman from among its members to preside over the committee in the absence of the President.

(4) The Secretary of the Assembly shall be *ex-officio* Secretary of the Steering Committee.

(5) Casual vacancies in the committee shall be filled as soon as possible after they occur by election by the Assembly in such manner as the President may determine.

40. (1) The committee shall—

- (a) arrange the order of business for the day;
- (b) group similar motions and amendments and secure, if possible, assent of the parties concerned to composite motions and amendments;
- (c) act as a general liaison body between committees *inter se* and between the President and any part of the Assembly; and

*Functions of the committee.*

(d) deal with any other matter under the rules or referred to it by the Assembly or the President.

(2) The President may make standing orders for the conduct of the business of the Steering Committee.

*Staff and Finance Committee.*

41. (1) A Staff and Finance Committee shall be set up for the duration of the Assembly and shall consist of—

(a) the President, who shall be *ex-officio* Chairman of the committee,

(b) the two Vice-Presidents, and

(c) nine other members to be elected by the Assembly in accordance with the principle of proportional representation by means of the single transferable vote.

*Functions of the committee.*

(2) The functions of the committee shall be—

(a) to advise the President regarding the posts to be created in the Office of the Assembly, and the salaries and emoluments to be attached thereto;

(b) to recommend to the Assembly the allowances to be paid to the officers and members of the Assembly and its committees; and

(c) to frame a budget or supplementary budget for submission to the Assembly.

(3) The President may make standing orders for the conduct of the business of the committee.

(4) The Staff and Finance Committee shall invite the Auditor General to audit the accounts of the Assembly.

*Credentials Committee.*

42. A Credentials Committee shall be set up for the duration of the Assembly for the purpose of dealing with all questions relating to the validity of the title of elected or other members.

*Constitution and functions of the committee.*

43. (1) The committee shall consist of five members who shall be elected by the Assembly.

(2) The committee shall have power to co-opt additional members not exceeding two in number.

(3) Casual vacancies in the committee shall be filled as soon as they occur by election by the Assembly or by co-option, as the case may be.

(4) The committee shall elect its own Chairman.

(5) The President may make standing orders for the conduct of the business of the committee.

*House Committee.*

44. (1) A House Committee shall be set up for the duration of the Assembly for the purpose of dealing with all questions relating to housing and accommodation of members, to provide for and to supervise over facilities

for food, medical relief, entertainment, and reading room and library during their stay.

(2) The committee shall consist of eleven members, who shall be elected by the Assembly in the manner to be prescribed by the President.

(3) The committee shall have power to co-opt additional members and to appoint sub-committees to deal with various items of their work.

45. (1) Any other committee may be set up by a motion in the Assembly.

*Other committees.*

(2) The members of every such committee shall, unless the motion by which the committee is set up otherwise provides, be elected according to the principle of proportional representation by means of the single transferable vote.

(3) Unless the motion by which a committee is set up otherwise provides, the committee shall appoint one of its members as Chairman who shall regulate the work of the committee.

46. Subject to the provisions of these rules, the Secretary of the Assembly shall be *ex-officio* Secretary of every committee, unless the motion by which the committee is set up otherwise provides.

*Secretary of committees.*

47. The motion by which a committee is to be set up, may state the quorum necessary to constitute a meeting of the committee and may fix the time within which the committee shall present its report, if any.

*Quorum and fixation of time for presentation of reports of committees. Presentation of report of committees.*

48. The report of a committee shall be presented to the Assembly by the Chairman of the committee unless the committee otherwise provides, and a copy thereof shall be forwarded to the Office of the Assembly.

## CHAPTER VIII

### *Budget*

49. (1) A statement of the estimated expenditure of the Assembly shall be prepared by the Staff and Finance Committee and placed before the Assembly for sanction.

*Budget.*

(2) Supplementary statements may be similarly placed before the Assembly in accordance with the directions of the President.

## CHAPTER IX

### *Salaries and Allowances*

50. (1) Allowances of the members shall be fixed by the Assembly on a motion approved by the Staff and Finance Committee. The committee may make standing

*Salaries and Allowances.*

orders providing for special allowances to members in particular cases as well as for allowances to non-members engaged on the work of the Assembly.

(2) The salaries and allowances of the servants of the Government of India or any Provincial Government or any other authority whose services are placed at the disposal of the Assembly shall be such as may be agreed upon between the Government or other authority concerned and the President acting on the advice of the Staff and Finance Committee. The salaries and allowances of all persons recruited directly shall be such as may be fixed by the President on the advice of the Staff and Finance Committee.

## CHAPTER X

### *Doubts and Disputes as to Elections*

#### *Definitions.*

51. In this Chapter, unless there is anything repugnant in the subject or context,—

(a) "Candidate" means a person who has been nominated as a candidate at any election or who claims that he has been so nominated or that his nomination has been improperly refused;

(aa) "representative" of any Indian State or States means the person who is chosen as a representative of such State or States in the Assembly in accordance with the provisions contained in the Schedule to these Rules.

(b) "Returned candidate" means a candidate whose name has been published in the appropriate Official Gazette as a duly elected member of the Assembly and includes a candidate whose name has been reported to the President in the manner provided in paragraph 5 of the Schedule to these rules as a duly chosen representative of any Indian State or States specified in column 1 of Part I of the Annexure to that Schedule.

#### *Election petition.*

52. No election shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.

#### *Presentation of petition.*

53. (1) An election petition against any returned candidate may be presented to the President by any candidate or elector on the ground of any irregularity or corrupt practice :

(i) in the case of elections to the Assembly held before the publication of these Rules within fifteen days

from the date on which these rules are published in the *Gazette of India* ;

- (ii) in the case of subsequent elections within thirty days from the date on which the results of the elections are published in the *Gazette of India* or in the Official Gazette of the Province concerned.

(2) An election petition shall be deemed to have been presented to the President when it is delivered to the President or to any officer appointed by him in this behalf :

- (a) by the person making the petition ; or
- (b) by the person authorised in writing in this behalf by the person making the petition ; or
- (c) by registered post.

54. At the time of the presentation of the petition, or, in the case of any petition presented before the date on which these rules come into force, within fifteen days from the date on which these rules are published in the *Gazette of India*, the petitioner shall deposit the sum of rupees one thousand in cash or in Government promissory notes of equal value at the market rate of the day as security for the costs of the case.

*Deposit of Security.*

55. (1) If the provisions of rule 53 or rule 54 are not complied with, the President shall dismiss the petition :

*Reference to Credentials Committee.*

Provided that if the person making the petition satisfies the President that sufficient cause existed for his not presenting the petition within the period prescribed in rule 53, the President shall have discretion to condone the failure to comply with that rule.

(2) If the petition is not dismissed under the preceding sub-rule, the President shall, if he is satisfied that sufficient grounds exist for such action, refer the petition to the Credentials Committee.

56. The Credentials Committee shall, with due despatch inquire into the allegations, made in the petition and, subject to the provisions of the next succeeding rule, submit a report to the President.

*Inquiry into petition.*

57. The Credentials Committee may, if they think fit, recommend to the President that an election tribunal be appointed to inquire into the petition.

*Recommendation for appointment of election tribunal.*

58. Where such a recommendation has been made, the President shall appoint an election tribunal consisting of one or more than one person to inquire into the petition.

*Appointment of election tribunal.*

59. On the conclusion of the inquiry, the election tribunal shall make a report to the President.

*Report of the election tribunal.*

*Attendance of witnesses and production of documents at enquiries into petitions.*

59-A. (1) The Credentials Committee or the election tribunal shall, for the purposes of an inquiry into an election petition, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and so far as may be in the same manner as is provided in the case of a civil court under the Code of Civil Procedure, 1908 (V of 1908).

(2) The provisions of the Indian Evidence Act, 1872, shall, subject to the provisions of these rules and the Standing Orders made by the President, be deemed to apply to every such inquiry.

*Election when to be void.*

60. (1) If in the opinion of the Credentials Committee or of the election tribunal, as the case may be, the election of the returned candidate has been vitiated by a corrupt practice of the kind specified in the Indian Legislative Assembly Electoral Rules as in force on the 1st day of August 1947 or has been materially affected by the improper acceptance or refusal of any nomination or by the improper reception or refusal of a vote or the reception of any vote which is void, or if the election has not been a free election by reason of the large number of cases in which undue influence or bribery of the kind described in the aforesaid Legislative Assembly Electoral Rules has been exercised or committed, the committee or the tribunal, as the case may be, may recommend in the report that the election be declared void.

(2) The report of the Credentials Committee or the election tribunal, as the case may be, shall include a recommendation as to the total amount of costs which are payable and the persons by and to whom such costs should be paid as well as a recommendation whether any costs should be paid out of the sum deposited as security under rule 54 and whether the said sum should be returned.

*Orders of the President on receipt of report.*

61. On receipt of the report of the Credentials Committee or the election tribunal, as the case may be, the President shall issue orders in accordance therewith and the orders so issued shall be final and shall not be questioned in any Court.

*Execution of Orders as to costs.*

61-A. Any order made by the President under rule 61 as to costs may, except where such costs are wholly payable out of the sum deposited as security under rule 54, be produced before the principal Civil Court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place

of residence or business, or, where such place is within the local limits of the ordinary original civil jurisdiction of a High Court, before the Court of Small Causes having jurisdiction there, and such Court shall execute such order or cause it to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

## CHAPTER XI

### *Miscellaneous*

62. All elections in the Assembly to be held on the principle of proportional representation by means of the single transferable vote shall be conducted *mutatis mutandis* in accordance with the regulations in force in this behalf in the Indian Legislative Assembly.

*Regulations regarding election on the principle of proportional representation.*

63. Subject to the requirement of a quorum prescribed by or under these rules, the Assembly and any committee set up by the Assembly shall have power to act notwithstanding any vacancy in the membership thereof.

*Power of Assembly or any committee to act notwithstanding vacancies.*

64. No new rule shall be made nor shall any of these rules be amended or deleted except after a reference of the proposal so to make, amend, or delete the rule to the Steering Committee which shall report to the Assembly within two weeks of the receipt of the reference.

*Amendment of rules.*

65. Save as otherwise provided in these rules, the provisions thereof shall apply *mutatis mutandis* to the committees of the Assembly.

*Rules of Procedure for committees.*

66. Where, in the opinion of the President, any difficulty arises in the carrying out of these rules, or in respect of any matter for which no provision is made in these rules, the President may, notwithstanding anything contained therein, make such provision as he thinks fit for the purpose of removing the difficulty.

*Removal of difficulties.*

67. If any question arises as to the interpretation of these rules otherwise than in connection with an election enquiry held thereunder, the question shall be referred for the decision of the President and his decision shall be final.

*Interpretation of rules.*

## THE SCHEDULE

(See rule 51)

1. The seats allotted to Indian States in the statement shall be allocated among the various States and groups of States as in the Annexure to this Schedule, generally on the basis of one seat for one million of the population, fractions of three-fourths or more being counted as one and lesser fractions being ignored in the case of individual States, and fractions of more than half

being counted as one and lesser fractions being ignored in the case of groups of States.

2. The President may, on the application of any State or States concerned, by order amend the Annexure to this Schedule so as to—

- (a) alter the representation allotted to the States, individual or grouped;
- (b) alter the grouping of the States by the division of a group into more than one group or the transfer of any State or States from one group to another or otherwise:

Provided that—

- (i) no such alteration shall affect the total representation of all the States or of the group or groups of States concerned; and
- (ii) in making any such alteration the population basis shall not be departed from and the geographical proximity, economic considerations, and ethnic, cultural and linguistic affinity shall be duly kept in view.

3. (1) When the representation allotted in the Assembly to the States, individual or grouped, or the grouping of the States for the purpose of such representation is altered by an order made under paragraph 2, or by an amendment of the Annexure to this Schedule, the President may, by order—

- (a) re-assign members representing a State or States to such State or States as may be specified in the order;
- (b) declare the seat or seats of any member or members of the Assembly representing any State or States affected by an order under paragraph 2 or an amendment of the Annexure to this Schedule, as the case may be, to be vacant.

(2) Any member who has been re-assigned to a State or States by an order made under clause (a) of sub-paragraph (1) and whose seat has not been declared vacant under clause (b) of that sub-paragraph shall as from the date of the order be deemed to be a duly chosen representative of such State or States.

(3) A member whose seat has been declared vacant by an order made under clause (b) of sub-paragraph (1) shall, if it is so specified in the order, continue to hold office as member of the Assembly until his successor has been duly elected and has taken his seat in the Assembly.

4. (1) All vacancies in the seats in the Assembly allotted to the States specified in column 1 of Part I of the Annexure to this Schedule shall be filled by persons elected by the elected members of the legislatures of the States concerned or, where such legislatures do not exist, by persons nominated by the authorities specified in the corresponding entries in column 3 of that Part.

(2) All vacancies in the seats in the Assembly allotted to the States specified in column 1 of Part II of the Annexure to this Schedule shall, subject to the provisions of sub-rule (2) of rule 5A of these Rules, be filled by persons elected by the members of the Legislative Assemblies specified in the corresponding entries in column 3 of that Part.

4-A. Notwithstanding anything contained in paragraph 4, all



the seats in the Assembly allotted to the State of Kashmir (otherwise known as the State of Jammu and Kashmir) may be filled by nomination, and the representatives of the State to be chosen to fill such seats may be nominated by the Ruler of Kashmir on the advice of his Prime Minister.

4-B. Notwithstanding anything contained in paragraph 4, the seat in the Assembly allotted to the State of Bhopal specified in column 1 of Part I of the Annexure to this Schedule may be filled by nomination, and the representative of the State to be chosen to fill that seat may be nominated by the authority specified in the corresponding entry in column 3 of that Part.

5. On the completion of the election or nomination, as the case may be, of the representative or representatives of any State or States specified in column 1 of Part I of the Annexure to this Schedule in the Constituent Assembly, the authority mentioned in the corresponding entry in column 3 of that part shall make a notification under his signature and the seal of his office stating the name or names of the person or persons so elected or nominated and cause it to be communicated to the President of the Assembly.

# ANNEXURE

Name of the State or States	Number of seats allotted in the Constituent Assembly	Authority
PART I		
Hyderabad	16	Ruler of Hyderabad.
Mysore	7	Ruler of Mysore.
Kashmir	4	Ruler of Kashmir.
United State of Kathiawar (Saurashtra)	5	Rajpramukh of the State.
United State of Rajasthan	12	Rajpramukh of the State.
United State of Vindhya Pradesh	4	Rajpramukh of the State.
United State of Gwalior-Indore- Malwa (Madhya Bharat)	7	Rajpramukh of the State.
Patiala and East Punjab States Union	3	Rajpramukh of the Union.
United State of Travancore-Cochin	7	Rajpramukh of the State.
Bhopal	1	Chief Commissioner of Bhopal.
Himachal Pradesh } Bilaspur	1	Chief Commissioner of Himachal Pradesh.
Cooch-Behar	1	Chief Commissioner of Cooch- Behar.
Kutch	1	Chief Commissioner of Kutch.
Manipur } Tripura	1	Chief Commissioner of Tripura.

Name of the State or States	Number of seats allotted in the Constituent Assembly	Authority
PART II		
Bombay States :—		
Baroda	}	8 Speaker of the Legislative Assembly of the Province of Bombay.
Kolhapur		
Rajpipla		
Palanpur		
Cambay		
Dharampur		
Balasinor		
Baria		
Chhota Udepur		
Sant		
Lunawada		
Bansda		
Sachin		
Jawhar		
Danta		
Janjira		
Sangli		
Savantvadi		
Mudhol		
Bhor		
Jamkhandi		
Miraj (Sr.)		
Miraj (Jr.)		
Kurundwad (Sr.)		
Kurundwad (Jr.)		
Akalkot		
Phaltan		
Jath		
Aundh		
Ramdurg		
Idar		
Radhanpur		
Sirohi		
Savanur		
Wadi		
Vijayanagar		
Jambughoda		
27 minor States ( <i>thanas</i> etc.)		
Central Provinces & Berar States :—		
Bastar	}	3 Speaker of the Legislative Assembly of the Province of Central Provinces & Berar.
Changbhakar		
Chhuikadan		
Jashpur		
Kanker		
Kawardha		
Khairagarh		
Korea		
Nandgaon		
Raigarh		
Sakti		
Sarangarh		
Surguja		
Udaipur		
Makrai		

Name of the State or States	Number of seats allotted in the Constituent Assembly	Authority
Madras States :— Banganapallee Pudukkottai Sandur	}	1 Speaker of the Legislative Assembly of the Province of Madras.
Orissa States :— Athgarh Athmallik Bamra Baramba Baudh Benai Dasapalla Dhenkanal Gangpur Hindol Kalahandi Keojarh Khandpara Mayurbhanj Narsinghpur Nayagarh Nilgiri Pal Lahara Patna Rairakhol Ranpur Sonepur Talcher Tigiria	}	5 Speaker of the Legislative Assembly of the Province of Orissa.
United Provinces States :— Rampur Banaras Tehri Garhwal	}	2 Speaker of the Legislative Assembly of the Province of United Provinces.

19

THE SCHEDULE

Name of the Member	State or States originally represented	State or States to which re-assigned
Shri Jainarain Vyas	Jodhpur	United State of Rajasthan.
Shri V. T. Krishnamachari Pandit Hiralal Shastri Shri Sardar Singh Bahadur	}	Jaipur Do.
Kanwar Jaswant Singhji	Bikaner	Do.

Name of the Member	State or States originally represented	State or States to which re-assigned
Shri Ram Chandra Upadhyaya Shri Raj Bahadur	United State of Matsya	United State of Rajasthan.
Shri A. Thanu Pillai Shri R. Sankar Shri P. S. Natraja Pillai Smt. Annie Mascarene Mr. K. A. Mohd. Shri P. T. Chacko	Travancore	United State of Travancore and Cochin.
Shri P. Govinda Menon	Cochin	Do.
Shri Jivraj Narayan Mehta Durbar Gopaldas A. Desai Shri Paranalal Thakurlal Munshi	Baroda	Bombay States.
Shri Lal Mohan Pati	Mayurbhanj	Orissa States.
Shri Himmatsingh K. Maheshwari	Sikkim and Cooch-Behar	Cooch-Behar.
Shri Girija Shankar Guha	Tripura Manipur Khasi States	Manipur Tripura
Shri Samaldas Laxmidas Gandhi	Junagadh	United State of Kathiawar (Saurashtra).
Col. B. H. Zaidi	Rampur Benares	United Provinces States.
Thakur Krishna Singh	<i>Residuary States—</i> Jaisalmer Sandur Tehri-Garhwal Bilaspur <i>Bihar States—</i> Seraikela Kharsavan <i>East Punjab States—</i> Loharu Pataudi Dujana	United Provinces States.

## (II) STANDING ORDERS

1. *Short title*: These Standing Orders may be called the Constituent Assembly Standing Orders.

2. *Definitions*: (1) In these Standing Orders, unless the context otherwise requires—

(i) "Rules" means the Constituent Assembly Rules.

(ii) "Committee" includes the Staff and Finance Committee, the House Committee, the Credentials Committee, the "States Committee" to

confer with the Negotiating Committee for the Indian States and any other committee set up by the Assembly as well as any sub-committee of a committee.

(2) All words and expressions used herein and defined in the Rules and not hereinbefore defined shall be deemed to have the meanings respectively attributed to them in those Rules.

#### I. COMMITTEES

3. *Chairman* : Save as otherwise provided in the Rules, each committee shall elect its own Chairman and in his absence may choose a member of the committee to preside and exercise the powers of the Chairman.

4. *Committees* : If any member of the Assembly is a member of a committee and ceases to be a member of the Assembly, he will also cease to be a member of the committee.

4A. Standing Order 4 shall not apply and shall be deemed never to have applied to the Advisory Committee referred to in paragraphs 19 and 20 of the Cabinet Mission's Statement of May 16, 1946.

5. *Vacancies* : The Chairman may report to the President the existence or occurrence of a vacancy in the membership of any committee and the President will thereupon take steps to fill the vacancy.

6. *Method of filling vacancies* : Save as otherwise provided in the Rules or in the resolution setting up the committee, any vacancy in the seat of a member of any committee, shall be filled by election, nomination, or co-option according as the said member was originally elected, nominated, or co-opted.

7. *Meetings of committees* : Meetings of a committee shall be convened by the Secretary of the committee at such times and at such places as the Chairman of the committee may direct.

8. *Notice of meetings* : When the Assembly is not in session, at least fourteen days' notice shall be given before a meeting of a committee can be convened :

Provided that in case of emergency, this period may be shortened at the discretion of the Chairman of the committee.

9. *Quorum* : (1) In the absence of any provision to the contrary, the presence of at least one-third of the number of the members shall be necessary to constitute a meeting of any committee :

Provided that there must be at least two members, exclusive of the Chairman, at any meeting of a committee.

(2) If at the time fixed for any meeting of a committee, or, if at any time during any such meeting, the quorum fixed by the preceding sub-rule is not present the Chairman of the committee shall either suspend the meeting until a quorum is present or adjourn the meeting to some future time.

(3) Where the meeting has been adjourned in pursuance of the preceding sub-rule on two successive occasions, the Chairman shall report the fact to the Assembly.

10. *Agenda*: (1) The agenda, together with explanatory memoranda, if any, shall be issued by the Secretary of the committee so as to reach the members not less than two clear days before the date fixed for the meeting.

(2) Except as otherwise permitted by the Chairman, no matter not included in the agenda shall be considered at the meeting of any committee.

11. *Expert evidence*: A committee may hear expert evidence and representatives of special interests concerned with the matters dealt with by the committee.

12. *Report*: (1) The report, if any, of a committee shall be signed by the members of the committee or by a majority of them.

(2) The report may be preliminary or final.

(3) If any member of the committee desires to record a minute of dissent on any point, he shall sign the report stating that he does so subject to his minute of dissent, and shall hand in the minute within such time as may be fixed by the committee in this behalf.

## II. CASUAL VACANCIES

13. }  
14. } Omitted\*.

## III. ELECTION DISPUTES

15. *Definitions*: In this part—

(1) "Tribunal" means the election tribunal appointed by the President under rule 58 of the Rules;

(2) "Costs" means all costs, charges and expenses of, or incidental to, an inquiry into an election petition;

(3) "Pleader" means any person entitled to appear and plead for another in a Civil Court and includes an advocate, a vakil and an attorney of a High Court.

15A. *Inquiry by the Credentials Committee*: (1) Where an election petition is referred by the President to the Credentials Committee, such committee shall hold a summary inquiry into the allegations made in the petition.

(2) For the purposes of such inquiry the Credentials Committee may cause a notice to be served on each respondent named in the petition together with a copy of the election petition calling upon him to show cause why the committee should not recommend to the President that the election in dispute be declared void or that an election tribunal be appointed to inquire into the petition.

(3) Where a notice has been issued on a respondent under sub-order (2), the Credentials Committee shall consider the cause, if any, shown by the respondent and may if they think necessary give the parties an opportunity of being heard and hear any evidence that may be produced by the parties or on their behalf in course of the inquiry:

\*These Standing Orders have been converted into Rules.

Provided that it shall only be necessary for the committee to make a memorandum of the substance of the evidence of any witness examined by them.

(4) A notice issued by the Credentials Committee to any person in course of the inquiry shall be served on such person—

- (a) personally, by delivering or tendering to him the notice, or
- (b) by registered post with acknowledgement due, or
- (c) where the person cannot be found, by leaving an authentic copy of the notice with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain.

16. Where a tribunal consists of more than one member, the President may appoint one of them to be the Chairman of the tribunal.

17. When a tribunal has been appointed to enquire into an election petition, all applications and proceedings in connection therewith shall be dealt with and held by such tribunal.

18. The tribunal shall, as soon as may be, cause a copy of the petition to be served on each respondent and to be published in the *Gazette of India* and may call on the petitioner to execute a bond in such amount and with such sureties as the tribunal may require for the payment of any further costs. At any time within 14 days after such publication any other candidate shall be entitled to be joined as a respondent on giving security in a like amount and procuring the execution of a like bond.

19. If the services of any person or persons constituting the tribunal are not available for the purposes of the inquiry, or if, during the course of the inquiry, any such person is unable to proceed with the work of the tribunal, the President may appoint another person for the purpose and the inquiry shall be recommended before the tribunal as so reconstituted :

Provided that the tribunal may direct that any evidence already recorded may remain upon the record, in which case it shall not be necessary to re-examine those witnesses who have already been examined and discharged.

20. Where the tribunal consists of more than one member, the Chairman of the tribunal may, if necessary, be appointed before the other members are appointed and if the Chairman is so appointed all references to the tribunal in these standing orders shall in respect of any matter which may be, or is to be, done before the commencement of the inquiry, be deemed to be references to the Chairman of the tribunal.

21. *Inquiry by the Tribunal* : (1) Subject to the provisions of the Rules and these standing orders every election petition shall be enquired into by the tribunal as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits :

Provided that it shall only be necessary for the tribunal to make a memorandum of the substance of the evidence of any witness examined by the tribunal.

(2) The provisions of the Indian Evidence Act, 1872, shall, subject to the provisions of the Rules and these standing orders, be deemed to apply in all respects to an inquiry into an election petition.

22. *Appearance by pleader* : Any appearance, application or act before the Credentials Committee or the tribunal may be made or done by the party in person or by a pleader duly appointed to act on his behalf :

Provided that any such appearance shall, if the Credentials Committee or the tribunal, as the case may be, so directs, be made by the party in person.

23. *Expenses of witnesses* : The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Credentials Committee or the tribunal to such person, and shall, unless the Credentials Committee or the tribunal, as the case may be, otherwise directs, be deemed to be part of the costs.

24. *Costs and Pleaders fees, etc.* : (1) The costs shall be in the discretion of the Credentials Committee or the tribunal as the case may be, and the Credentials Committee or the tribunal shall have full power to determine by and to whom and to what extent such costs are to be paid and to include in its report all necessary recommendations for the purposes aforesaid. The Credentials Committee or the tribunal, as the case may be, may allow interest on costs at a rate not exceeding 6 per cent. per annum and such interest shall be added to the costs.

(2) The fees payable by a party for his adversary's pleader shall be such as the Credentials Committee or the tribunal, as the case may be, may allow.

25. *Place of inquiry* : The inquiry shall be held at such place as the President may appoint :

Provided that the tribunal may, in its discretion, sit for any part of the inquiry at any other place in the Province or the Indian State in which the election to which the petition relates has taken place and, if the tribunal consists of more than one person, may depute any of its members to take evidence at any place in that Province or State.

26. *Withdrawal of petition* : (1) An election petition may be withdrawn by the leave of the President :

Provided that if the petition has been referred to an election tribunal, it can be withdrawn only with the leave of the tribunal.

(2) If there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of the petitioners.

(3) When an application for withdrawal is made to the tribunal, notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the *Gazette of India*.

(4) No application for withdrawal shall be granted if, in the opinion of the President or of the tribunal, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed.

(5) If the application is granted—

(a) the petitioner shall, where the application has been made to the



tribunal, be ordered to pay the costs of the respondent theretofore incurred or such portion thereof as the tribunal may think fit;

- (b) notice of the withdrawal shall be published in the *Gazette of India* by the President or by the tribunal, as the case may be; and
- (c) any person who might himself have been a petitioner may, within 14 days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and, upon compliance with the conditions of Rule 54 of the Rules as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the tribunal may think fit.

27. *Abatement or substitution on death of petitioner*: (1) An election petition shall abate only on the death of the sole petitioner or of the survivor of several petitioners.

(2) Notice of abatement of an election petition shall be published in the *Gazette of India* by the tribunal or, if the petition abates before any tribunal has been appointed, by the President.

(3) Any person who might himself have been a petitioner may, within 14 days of such publication apply to be substituted as petitioner, and, upon compliance with the conditions of Rule 54 of the Rules as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the tribunal may think fit.

28. *Abatement or substitution on death of respondent*: If before the conclusion of the inquiry into an election petition the respondent dies or gives notice that he does not intend to oppose the petition, the tribunal shall cause notice of such event to be published in the *Gazette of India* and thereupon any person who might have been a petitioner may, within 14 days of such publication, apply to be substituted for such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the tribunal may think fit.

29. *Recrimination when seat claimed*: Where at an inquiry into an election petition any candidate, other than the returned candidate, claims the seat for himself, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented complaining of his election:

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within 14 days from the date of the publication of the election petition under standing order 4 given notice of his intention to the tribunal and made the deposit and procured the execution of the bond referred to in Rule 54 of the Rules and in standing order 4 respectively.

30. The report of the tribunal shall be in writing, shall be signed by the person or persons constituting the tribunal, and shall be published in the *Gazette of India*.



PART FIVE  
COMMITTEES (ADMINISTRATIVE)  
OF THE HOUSE



## THE FINANCE AND STAFF COMMITTEE

December 23, 1946

*[The Constituent Assembly Rules of Procedure adopted by the House on December 23, 1946 provided vide Rule 42, (Rule 41 in the second, third and fourth editions of the Rules of Procedure) for the setting up of a Finance and Staff Committee for preparing the budget of the Assembly and for advising the President in regard to the Secretariat staff and the allowances of officers and members of the House and its committees. The committee was to consist of the President of the Assembly as ex-officio Chairman, the five Vice-Presidents of the Assembly—an amendment of July 15, 1947 reduced the number of Vice-Presidents to only two—and nine other members. Elections to the Committee were held on December 23, 1946. The names of persons who constituted the committee and the text of the relevant Rule are given below.]*

## (I) RULE 42

42. (1) A STAFF AND Finance Committee shall be set up for the duration of the Assembly and shall consist of—

- (a) the President, who shall be *ex-officio* Chairman of the committee,
- (b) the five Vice-Presidents\*, and
- (c) nine other members to be elected by the Assembly in accordance with the principle of proportional representation by means of the single transferable vote.

(2) The functions of the committee shall be—

- (a) to advise the President regarding the posts to be created in the Office of the Assembly, and the salaries and emoluments to be attached thereto ;
- (b) to recommend to the Assembly the allowances to be paid to the officers and members of the Assembly and its committees; and
- (c) to frame a budget or supplementary budget for submission to the Assembly.

\*Amended on July 15, 1947 to read "the two Vice-Presidents".

(3) The President may make standing orders for the conduct of the business of the committee.

(4) The Staff and Finance Committee shall invite the Auditor-General to audit the accounts of the Assembly.

## (II) PERSONNEL OF THE COMMITTEE

*Chairman* : Rajendra Prasad, President of the Assembly.

*Members* : (1) H. C. Mookherjee and (2) V. T. Krishnamachari (Vice-Presidents of the Assembly), (3) Satyanarayan Sinha, (4) Jaipal Singh, (5) V. I. Muniswami Pillai, (6) N. V. Gadgil, (7) Govind Das, (8) Sri Prakasa, (9) Rajkumari Amrit Kaur, (10) Bhawanji A. Khimji\* and (11) K. Santhanam\*.

\*Replaced Harnam Singh and C. E. Gibbon, who were originally (on December 23, 1946) elected.

## THE CREDENTIALS COMMITTEE

December 23, 1946

*[Rules 43 and 44 (Nos. 42 and 43 in the second, third and fourth editions) of the Constituent Assembly Rules of Procedure provided for the setting up of a Credentials Committee for dealing with the credentials of the members of the Assembly. The committee was to consist of five members who were to be elected by the House. It was first constituted on December 23, 1946. The personnel of the committee and the text of the relevant Rules are given below.]*

## (I) RULES 43 AND 44

43. A CREDENTIALS COMMITTEE shall be set up for the duration of the Assembly for the purpose of dealing with all questions relating to the validity of the title of elected or other members.

44. (1) The committee shall consist of five members who shall be elected by the Assembly.

(2) The committee shall have power to co-opt additional members not exceeding two in number.

(3) Casual vacancies in the committee shall be filled as soon as they occur by election by the Assembly or by co-option, as the case may be.

(4) The committee shall elect its own Chairman.

(5) The President may make standing orders for the conduct of the business of the committee.

## (II) PERSONNEL OF THE COMMITTEE

*Chairman* : Alladi Krishnaswami Ayyar.

*Members* : (1) P. K. Sen, (2) Bakshi Tek Chand, (3) B. Pocker\*, and (4) Ram Sahai\*.

\*Replaced Sarat Chandra Bose and Frank Anthony who were originally (on December 23, 1946) elected.

## THE HOUSE COMMITTEE

December 23, 1946

*[The Constituent Assembly Rules of Procedure, vide Rule 45 (No. 44 in second, third and fourth editions) provided for the setting up of a House Committee to deal with the boarding, lodging and other problems of members during their stay at Delhi. The committee was to consist of eleven members who were to be elected by the House. The committee could co-opt more members and appoint sub-committees. The committee was elected on December 23, 1946. It appointed a sub-committee on January 28, 1947 for advising on the actual allotment of accommodation to members. The names of the members constituting the committee and the sub-committee and the text of the relevant Rule are given below.]*

### (I) RULE 45

45. (1) A HOUSE COMMITTEE shall be set up for the duration of the Assembly for the purpose of dealing with all questions relating to housing and accommodation of members, to provide for and to supervise over facilities for food, medical relief, entertainments, and reading room and library during their stay.

(2) The committee shall consist of eleven members, who shall be elected by the Assembly *one representing each Governor's Province\** in the manner to be prescribed by the President.

(3) The committee shall have power to co-opt additional members and to appoint sub-committees to deal with various items of their work.

### (II) PERSONNEL OF THE COMMITTEE\*\*

*Chairman* : B. Pattabhi Sitaramayya.

\*The words "one representing each Governor's Province" were omitted by an amendment dated July 15, 1947.

\*\*As originally constituted on December 23, 1946, the committee also included Radhanath Das (Bengal), Akshay Kumar Das (Assam), Abdul Ghaffar Khan (N.W. F.P.), Jairam Das Daulatram (Sind) and Shri Ram Sharma (Punjab). They were replaced by Mohd. Hassan, Upendra Nath Barman, Jainarayan Vyas, B. Shiva Rao, Deshbandhu Gupta and B. Pattabhi Sitaramayya, the last three having been co-opted on January 28, 1947.



*Members :* (1) Dip Narain Sinha, (2) Nandkishore Das, (3) Mohan Lal Saksena, (4) H. V. Kamath, (5) R. R. Diwakar, (6) Mrs. Ammu Swaminathan, (7) Mohd. Hassan, (8) Upendra Nath Barman, (9) Jainarayan Vyas, (10) B. Shiva Rao, and (11) Deshbandhu Gupta.

(III) PERSONNEL OF THE SUB-COMMITTEE

(1) B. Shiva Rao, (2) B. Pattabhi Sitaramayya, (3) Mohan Lal Saksena, and (4) Deshbandhu Gupta.

## PRESS GALLERY COMMITTEE

January 7, 1947

[On January 7, 1947, the President of the Constituent Assembly appointed by an executive order a Press Gallery Committee to advise him in regard to the allotment of passes to press correspondents for the Press Gallery of the House. The committee consisted of the representatives of the press. The names of the members of the committee are given below.]

## PERSONNEL OF THE COMMITTEE

1. Usha Nath Sen (Associated Press of India), *Chairman*.
2. Durga Das (Hindustan Times), *Vice-Chairman*.
3. J. M. Sahni (National Call), *Member*.
4. Mohd. Jaffri (Ajmal & Inqilab), *Member*.
5. Charu Sarkar (United Press of India), *Member*.
6. Manzurul Huq (Orient Press of India), *Member*.
7. Sri Krishna (Mail, Andhra Patrika, Dināsari, Pioneer, Bombay Chronicle, Capital, Star of India, Sind Observer), *Member*.
8. K. Gopalaswami (Times of India), *Member*.
9. Walker Mason (Associated Press of America), *Member*.
10. Ramgopal (Arjun), *Member*.
11. P. D. Sharma (Janmabhumi, Hindustan Standard), *Secretary*.

## THE STEERING COMMITTEE

January 21, 1947

[Rules 40 and 41 of the Constituent Assembly Rules of Procedure (First Edition; in subsequent editions numbered as 39 and 40) provided for the election by the Assembly of eleven members to constitute a Steering Committee for arranging the order of business for the day, grouping similar motions and securing assent of the members to composite motions, and acting as a liaison body between various wings, organs and functionaries of the Assembly. The President of the Assembly was to be the *ex-officio* chairman of the committee and the Assembly could elect from time to time eight additional members. A resolution for the election of the committee was adopted by the House on January 20, 1947 and the elections were held the next day. The text of the relevant rules and the names of the members of the committee—including the eight additional members elected later—are given below.]

## (I) RULES 40 AND 41

40. (1) A STEERING COMMITTEE shall be set up for the duration of the Assembly and shall consist initially of eleven members (other than the President) to be elected by the Assembly in accordance with the principle of proportional representation by means of the single transferable vote.

(2) The Assembly may from time to time elect, in such manner as it may deem appropriate, eight additional members, of whom four shall be reserved for election from among the representatives of the Indian States.

(3) The President shall be an *ex-officio* member of the Steering Committee and shall be its *ex-officio* Chairman. The committee may elect a Vice-Chairman from among its members to preside over the committee in the absence of the President.

(4) The Secretary of the Assembly shall be *ex-officio* Secretary of the Steering Committee.

(5) Casual vacancies in the committee shall be filled as soon as possible after they occur by election by the Assembly in such manner as the President may determine.

41. (1) The committee shall—

- (a) arrange the order of business for the day ;
- (b) group similar motions and amendments and secure, if possible, assent of the parties concerned to composite motions and amendments ;
- (c) act as a general liaison body between the Assembly and the Sections, between the Sections *inter se*,\* between committees *inter se*, and between the President and any part of the Assembly ; and
- (d) deal with any other matter under the rules or referred to it by the Assembly or the President.

(2) The President may make standing orders for the conduct of the business of the Steering Committee.

## (II) PERSONNEL OF THE COMMITTEE

*Chairman* : Rajendra Prasad, President of the Assembly.

*Members*† : (1) Sardar Vallābhhai Patel, (2) Mrs. G. Durgabai, (3) S. H. Prater, (4) Satyanarayan Sinha, (5) M. Ananthasayanam Ayyangar, (6) K. M. Munshi, (7) Diwan Chaman Lal, (8) P. Govinda Menon, (9) C. S. Venkatachar, (10) Saiyid Mohd. Saadulla, (11) Abdul Kadar Mohd. Shaikh, (12) Surendra Mohan Ghose, (13) Jagat Narain Lal, (14) J. B. Kripalani, (15) Gyani Gurmukh Singh Musafir, (16) K. Chengalvaraya Reddy, (17) Balwant Rai Mehta, (18) R. M. Nalavade, and (19) Suresh Chandra Mazumdar.

\*The words "between the Assembly and the Sections, between the Sections *inter se*", were omitted by an amendment adopted on July 15, 1947.

†The eleven members originally elected (on January 21, 1947) included Abul Kalam Azad, Sardar Ujjal Singh, K. S. Roy and S. N. Mane.

## ORDER OF BUSINESS COMMITTEE

April-July, 1947

*[On January 25, 1947, a resolution was moved in the Constituent Assembly by B. Pattabhi Sitaramayya for the setting up of a committee to recommend the order of future business of the House in regard to the framing of the constitution. The committee, presided over by K. M. Munshi, submitted two reports. The first report was presented to the Assembly on April 30, 1947. In this report the committee was not able to make final recommendations because of the fluid political circumstances then obtaining. The statement of June 3 finally settled the political issue and partition became a certainty. This brought about a great change in the programme of the Assembly inasmuch as some of the reports which had been submitted earlier required reconsideration in the light of later developments. The committee, in its final report presented on July 14, 1947, took note of these developments and stressed that the Assembly should complete its work by the end of October 1947. The texts of the resolution appointing the committee and of the reports of the committee are reproduced below.]*

## (I) RESOLUTION APPOINTING THE COMMITTEE

January 25, 1947

THIS ASSEMBLY RESOLVES that a committee consisting of (1) The Hon'ble Sir N. Gopalaswami Ayyangar, (2) Shri K. M. Munshi, and (3) Shri Biswanath Das be adopted to recommend the order of the further business of this Assembly in framing the constitution for all India and to submit its report before the commencement of the next session of this preliminary meeting of this Assembly.

The Assembly further resolves that the presence of not less than two members of the committee shall be necessary to constitute a meeting of the committee.

## (II) FIRST REPORT OF THE COMMITTEE

April 27, 1947

We, the undersigned, members of the committee appointed by the

Resolution of the Constituent Assembly dated the 25th January 1947, to recommend the order of the further business of the Assembly, have the honour to submit this our report.

We met on the 5th March, and on the 21st, 23rd and 27th April 1947. Pandit Jawaharlal Nehru was, by special invitation, present at all the meetings of the committee except the one held on the 23rd.

The statement of His Majesty's Government made in Parliament on the 20th February 1947, has imported an element of urgency into the work and proceedings of the Assembly and, in our opinion, it is essential that the constitution should be prepared well before the end of this year. The task of arranging the order of business and of framing a timetable is, however, by no means easy. The political situation is developing with great rapidity, and the changes that are taking place inevitably affect the work of the Assembly. We are not, therefore, in a position at this stage to make final recommendations except in regard to the immediate future; and we request that we be permitted to submit a further report at a subsequent stage.

We understand that when the Assembly meets on the 28th April, it will have before it the reports of the following committees :

- (1) The States Committee appointed by the Constituent Assembly on 21st December 1946.
- (2) The Union Powers Committee appointed by the Constituent Assembly on 25th January 1947.
- (3) The Advisory Committee appointed by the Constituent Assembly on 24th January 1947, but only on the subject of Fundamental Rights.

After the business connected with these reports has been disposed of by the Assembly, we recommend that two separate committees be appointed, one to report on the main principles of the Union constitution and the other to report on the principles of a model Provincial constitution. We consider that there are many advantages in having two committees, perhaps with an element of common membership, working side by side and considering the inter-related principles of the Union and the Provincial constitutions. The work of the committees will be of an exploratory nature to facilitate and expedite the work of the Union Assembly or the Sections thereof, as the case may be. After the committees have been set up, we recommend that the meeting be adjourned to a date to be fixed by the President at his discretion. We suggest this flexible arrangement partly in order that the Assembly may avoid difficulties likely to arise from the fixation of a date in advance and partly because experience has shown that committees are not always able to work up to a rigid timetable.

The Constituent Assembly should complete its work by the end of October this year. A meeting will be necessary at the end of June or the beginning of July to consider the reports of the various committees and

thereafter the matter of going into Sections. A meeting of the Assembly to finalise the constitution should be held in September.

K. M. MUNSHI  
N. GOPALASWAMI  
BISWANATH DAS.

(III) SECOND REPORT OF THE COMMITTEE

July 9, 1947

FROM

THE CHAIRMAN,  
ORDER OF BUSINESS COMMITTEE.

TO

THE PRESIDENT,  
CONSTITUENT ASSEMBLY OF INDIA.

SIR,

During the last session of the Assembly, we submitted a report which was necessarily tentative because of the fluid political circumstances then obtaining. Since then, momentous changes have occurred and the position has become crystallised. His Majesty's Government have issued a fresh statement on June the 3rd which has been accepted by all the principal political parties; and as a result of the decisions taken in pursuance of that statement, certain parts of the country will secede from India. These changes have revolutionised both the procedural and the substantive parts of the scheme on the basis of which we have been working hitherto. So far as the procedural aspect is concerned, it is no longer necessary for the Assembly to split into Sections and to consider the question of groups, and the double majority provisions in regard to matters of major communal importance are no longer operative.

It is against this background that we held a meeting on the 3rd of July. Pandit Nehru was present at the meeting at our request, and we are grateful to him for the help he gave us.

2. We understand that during the next session, the Assembly will have before it three reports for consideration—those of the Union Constitution Committee, the Union Powers Committee and the Provincial Constitution Committee. Between them these reports will deal with a large majority of questions that would have to be decided by the Assembly. We recommend that the Assembly take decisions on the reports in the July session and direct that the work be taken up at once of drafting the Constitution Bill. We recommend also that the Assembly appoint a committee of members to scrutinise the draft before it is submitted to the Assembly and its subsequent session.

3. The matters that will remain outstanding at the end of July session will be the reports of the Advisory Committee on Fundamental Rights,

Minorities and the administration of the Tribal and Excluded Areas. We suggest that the Advisory Committee complete its work in August and the recommendations made by them incorporated by the Draftsman in his Bill notwithstanding that no decisions will by then have been taken on them by the Assembly. Any changes which are subsequently considered necessary could be incorporated in the draft Bill by suitable amendments.

4. In our last report we had suggested that the Assembly should complete its work by the end of October this year. We reiterate this recommendation; and, having regard to the progress made by the committees, we think this is quite practicable. We propose accordingly that the Assembly authorise the President to summon a session sometime in October, preferably in the early part of the month, for the purpose of considering the draft of the constitution.

5. We do not think it necessary in the altered circumstances for decisions taken in the July session to be circulated in accordance with rule 63 of the Constituent Assembly Rules.

6. Our recommendations will involve an amendment to the Rules which we request the Steering Committee to take into consideration.

I have the honour to be,

Sir,

Your most obedient servant,

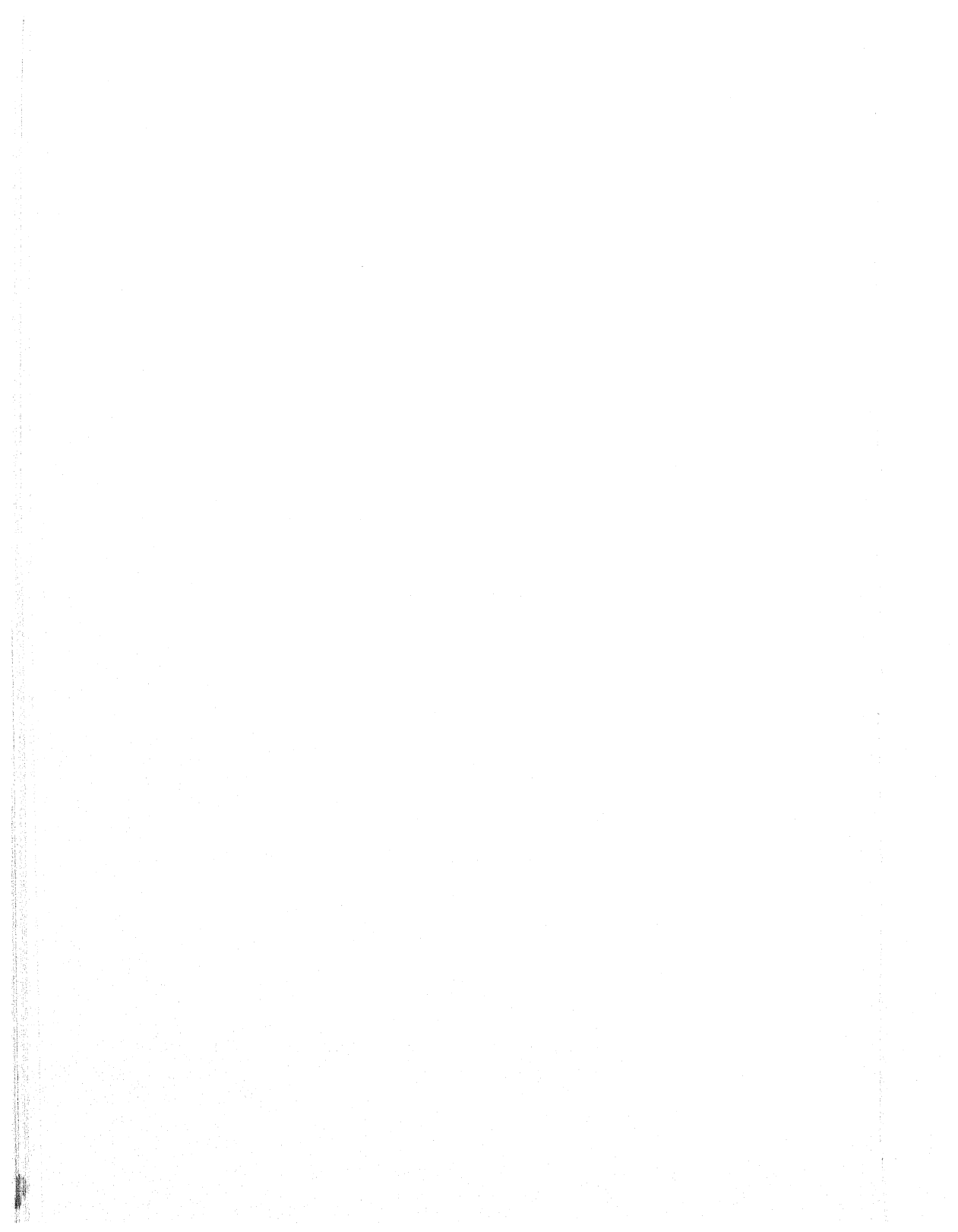
K. M. MUNSHI,

*Chairman*

(on behalf of the Committee).



PART SIX  
THE NATIONAL FLAG



## ADOPTION OF THE NATIONAL FLAG

[The President of the Constituent Assembly appointed on June 23, 1947, under his chairmanship an ad hoc committee to determine the National Flag of independent India. Besides the Chairman, the committee consisted of Abul Kalam Azad, C. Rajagopalachari, Shrimati Sarojini Naidu, K. M. Panikkar, K. M. Munshi, B. R. Ambedkar, Frank Anthony, B. Pattabhi Sitaramayya, Hiralal Shastri, Satyanarayan Sinha, Baldev Singh, and S. N. Gupta. Since the President felt that there was a strong feeling in the country in favour of adopting as the National Flag of India the National Flag adopted by the Congress in 1931, the resolutions passed by the Congress Working Committee and the All-India Congress Committee in August 1931 were circulated to the members of the ad hoc committee along with the notification appointing it and inviting its members to assemble on July 10, 1947, for the first meeting of the committee. After July 10, the committee met again on July 18. Amongst other things, the committee considered a note on the National Flag prepared by S. D. Kalelkar of Nagpur. Final decisions regarding the design of the flag were taken on July 18. On July 22, on a motion by Nehru the flag recommended by the committee was finally adopted by the Assembly to be the National Flag of independent India. S. Radhakrishnan and Mohammad Saadullah who were amongst those who spoke on Nehru's motion, inter alia, explained the significance of the Flag with reference to the colour scheme adopted therein. Shrimati Sarojini Naidu who was called upon by the President to make the last speech on the motion, concluded by making an eloquent appeal to the "men and women of re-born India" to rise and salute the flag; Nehru's motion was adopted, the whole Assembly standing. The texts of the notification appointing the ad hoc committee, Congress resolutions of 1931, S. D. Kalelkar's note on the National Flag, minutes of the ad hoc committee and the speeches of Nehru, Radhakrishnan, Mohammad Saadullah and Shrimati Sarojini Naidu in the Assembly are reproduced below.]

(I) NOTIFICATION ON THE APPOINTMENT OF THE AD HOC  
COMMITTEE  
June 23, 1947

FROM THE DAY that India receives complete transfer of power from British

hands, it is necessary that a national flag should fly from all public buildings. The design of this flag should be approved in advance by the Constituent Assembly of India.

2. The President has decided that an *ad hoc* committee consisting of the following members should be set up with a view to advising on the design of the flag. It is proposed that the report of the committee should be placed before the next session of the Assembly commencing on the 14th of July.

- (1) Maulana Abul Kalam Azad,
- (2) Mr. C. Rajagopalachari,
- (3) Mrs. Sarojini Naidu,
- (4) Sardar K. M. Panikkar,
- (5) Mr. K. M. Munshi,
- (6) Dr. B. R. Ambedkar,
- (7) Sardar Ujjal Singh,
- (8) Mr. Frank Anthony,
- (9) Mr. S. N. Gupta (formerly Principal of the Mayo School of Arts, Lahore).

3. The President has good reason to believe that there is a strong feeling in the country in favour of adopting as the national flag of India the national flag adopted by the Congress in 1931. Copies of the resolutions passed by the Working Committee and the A.I.C.C. in August of that year are enclosed for information.

4. The first meeting of the committee will be held in the President's room in the Council Chamber on Thursday the 10th July, at 10 A.M. I am to express the hope that you will find it convenient to attend.

## (II) CONGRESS WORKING COMMITTEE RESOLUTION August, 1931

Having considered the Report of the Flag Committee, the Working Committee appreciates its labours and endorses its view that the national flag should not bear any communal significance and that it should be distinctive and not capable of being mistaken for the flag of any other country. The Working Committee feels, however, that it would be desirable to have as little change as possible in the existing flag. The committee, therefore, recommends to the A.I.C.C. for its adoption the following change :

The flag to be three coloured, horizontally arranged, as before, but the colours shall be saffron, white and green in the order stated here from top to bottom, with the spinning-wheel in dark blue in the centre of the white stripe; it being understood that the colours have no communal significance, but that saffron shall represent courage and sacrifice, white peace and truth, and green shall represent faith and chivalry, and the spinning-wheel the hope of the masses.

## (III) ALL INDIA CONGRESS COMMITTEE RESOLUTION

August, 1931

The report of the National Flag Committee was considered and it was resolved that "the National Flag shall be three coloured, horizontally arranged as before, but the colours shall be saffron, white and green, in the order stated here from top to bottom, with the spinning-wheel in dark blue in the centre of the white stripe, the colours standing for qualities, not communities. The saffron shall represent courage and sacrifice, white peace and truth, and green shall represent faith and chivalry and the spinning-wheel the hope of the masses. The proportions of the flag should be as three to two." The new national flag was required to be hoisted on August 30th, the last Sunday of the month, which was to be celebrated as the Flag Day.

## (IV) A NOTE ON THE POINTS SUGGESTED FOR DISCUSSION

AT THE AD HOC COMMITTEE MEETING

July 10, 1947

## I. NATIONAL FLAG

(i) *Colours to be used :*

(a) Exact shades of the colours.

(b) Width of the stripes of the colours.

(ii) *Whether any symbol should be superimposed on the colours :*

(a) Position of the symbol/s on the flag.

(b) Colour or colours of the symbol/s.

*Note.*—"Flag designing is really a branch of heraldry and should be in accordance with its laws both in the forms and colours introduced. Yellow in blazonry is the equivalent of gold, and white of silver, and it is one of the requirements of heraldry that colour should not be placed upon colour nor metal upon metal; but it is not every one who knows heraldry, as is evident from the national flags of the South American Republics and other States that should have known better. Even the Popes with their white and yellow, that is silver and gold, have displayed their ignorance of heraldry for over a thousand years, and imposed it on the kingdom of Jerusalem"—Wheeler—Holohan.

(c) Size of the symbol/s.

(iii) *Size of the Flag :*

Proportion of the width to the breadth.

*Note.*—The maximum size of the Union Jack ordinarily used is 18 ft. × 9 ft. : the usual one being 12 ft. × 6 ft.

## II. NATIONAL EMBLEM TO BE USED ON THE STATE SEALS, LETTER-HEADS OF STATE PAPERS, ETC.

(i) *Composition :*

(a) What symbols should be incorporated?

(b) In what order should the symbols be arranged?

- (c) What should be the predominant symbol?
- (ii) *Colour of the emblem :*
- (a) Should there be one colour?
- (b) Should the national colours be used?

*Note.*—When used as a seal or as a letter-head the emblem will usually be only of one colour; but when it is used as an architectural feature or has to be painted for ceremonial purposes on State furniture etc., it will have to be in colours, and it is therefore advisable to fix the colours.

### (V) NOTE ON A NATIONAL FLAG FOR INDIA BY

S. D. KALELKAR

July, 1947

Pandit Jawaharlal Nehru's far-sighted decision to stick to the original nomenclature of 'Union of Indian Republics' with a view to emphasising the Congress stand that there has been no change of outlook as far as they are concerned, may serve as a useful pointer to the *ad hoc* Committee for National Flag, recently appointed by Dr. Rajendra Prasad, the President of the Constituent Assembly. If the Congress ideology has remained unchanged, a flag which has represented that ideology and for which millions shed their blood so that the honour of the national flag may be maintained, need not undergo any radical change except on grounds of technical details of flag-making.

Originally, the flag had three horizontal strips of white, green and red in that order, starting from the top, with the figure of *charkha* superimposed. At later stages, the red strip was replaced by the orange (to recognise the sacrifices of the saffron-clad *Desh-sevikas*, as some thought) and the order was changed to orange, white and green, with the *charkha* in the centre.

One of the basic principles of flag-making is that it must be distinct against the background of the sky and for this reason, a white strip at any extremity has to be ruled out of the question. The original flag with a white strip at the top and flying on the mast of, say, a battleship, would appear against the background of the sky as a flag with only two strips of green and red, the white strip being swallowed up by the sky. The white strip, if it is to remain, and I shall show presently why it should remain, must necessarily be in the centre with two distinct colours coming above and below it.

The second principle is that the colours must be as distinct as possible and must not be capable of running into too many shades. The present orange colour, from this point of view is not an improvement on the old red. Not infrequently we come across flags with orange colours which may be anything from yellow, saffron, and pink to *bhagwa* of the *Sadhu's kafni*. The red strip of the original flag was definitely better from this point of view.

Adoption of the original red might also effect a compromise with workers

who have a partiality to that colour. A symbol of revolution, the red need not necessarily indicate a bloody revolution; it may very well stand for the non-violent revolution that we have witnessed in India.

If the saffron was introduced to recognise the sacrifices of the *Desh-sevikas*, (and I am told, this was not the case), would not 'white', the symbol of purity, better suit Indian womanhood? Would it not also depict them as 'Sisters of Mercy' which in reality they are? Replacement of the orange need not therefore worry the *Desh-sevikas*.

A third principle which is equally important if the flag is to have a wide popular appeal is that, the details of design must not be too complicated and over-decorative to make it almost impossible for a man in the street to design a national flag of his own; 'Tiger's head' for example, would not do.

From this point of view, we should try and see if the present *charkha* cannot be replaced by something that symbolises *charkha*. The *charkha* must of course be maintained, but only in a symbolic form. The present figure of *charkha* creates following difficulties of flag-making :

- (i) The design is not very easy to draw ;
- (ii) It is not symmetrical ; and
- (iii) If the obverse of the flag shows *charkha* with the wheel towards the mast and the spindle towards the end with its point facing towards one (I am thinking of the position when the flag is flying to the left of the mast), then the reverse must show the same *charkha* but the point of the spindle facing away from one. Few understand this important point and we come across ridiculous figures of *charkha* with the wheel towards the left and the spindle pointing towards one on the right.

The simple wheel, I submit, could still symbolise the *charkha* making it easier to draw, symmetrical in design, and without creating confusion with the obverse and the reverse sides of the flag.

The wheel which was the earliest and most vital discovery of human beings has been the sub-stratum of all civilizations, and it would particularly symbolise an agricultural community such as Indian. It would therefore represent the *Kisan* and the *Kisan* movement too.

At the same time, the wheel may indicate industry and commerce without necessarily implying mechanisation or the capitalist system.

The wheel may further symbolise *kranti* by being the wheel of revolution and may be acceptable to parties which prefer to call themselves 'revolutionary'.

And finally, the wheel might also include the Buddhist concept of *Dharma-Chakra* (adopted by Emperor Ashoka) or the balance-wheel of religion that sustains society. The spiritual basis of Indian civilisation might thus be made pronounced in our national symbol which will carry the message of peace, and non-violence to the whole world.

To conclude, our flag may have three strips of red, white and green (of the mother earth and her children the tillers) with a wheel with eight spokes superimposed in any suitable colour.

# (VI) AD HOC COMMITTEE MINUTES

July 10 and 18, 1947

July 10, 1947

*Present* : Dr. Rajendra Prasad (in the Chair), Maulana Abul Kalam Azad, Mr. C. Rajagopalachari, Mrs. Sarojini Naidu, Sardar K. M. Panikkar, Mr. K. M. Munshi, Dr. B. R. Ambedkar, Sardar Baldev Singh, Mr. Frank Anthony, Mr. S. N. Gupta, Pandit Hiralal Shastri, Dr. B. Pattabhi Sitaramayya, and Mr. Satyanarayan Sinha.

*In attendance* : Mr. H. V. R. Iengar, Secretary and Mr. B. F. H. B. Tyabji, Deputy Secretary. Pandit Jawaharlal Nehru was present by special invitation.

After a general discussion on the significance and importance of the national flag, it was agreed that the flag should be so designed as to command universal respect and devotion, irrespective of party or other affiliations, and then placed before the Constituent Assembly for adoption as the National Flag of India.

2. The following decisions were then taken :

- (1) The flag of the Indian National Congress should be adopted as the national flag with suitable modifications to make it acceptable to all parties and communities in India.
- (2) The size of the flag should be in the proportion of 3:2, the former being the length from masthead to fly.
- (3) The flag should be a tricolour with the three bands horizontally arranged.
- (4) The colours should be in the following order: Saffron (*kesari*) on top; White in the middle; and dark Green at the bottom.
- (5) The emblem on the flag should be an exact reproduction of the wheel on the capitol of Asoka's Sarnath pillar superimposed in the middle of the central band (white) of the flag.
- (6) The colour of the emblem should be dark blue.

3. The question of the designs of the State emblem and seal was then considered, and the following tentative decisions taken :

- (1) The emblem and the seal should be of the same design.
- (2) The design should be an exact reproduction of the whole of the Sarnath Asoka capitol till it joins the stem of the Pillar (*sthambha*).
- (3) The words "Republic of India" should be superscribed round the emblem, and "Seal of the Republic of India" round the seal.

The committee decided to meet again after a few days when a final



decision on the designs of the flag and the emblem will be taken after considering the samples which will be made in accordance with the directions given above.

July 18, 1947

*Present :* (1) Dr. Rajendra Prasad (in the Chair), (2) Maulana Abul Kalam Azad, (3) Mr. C. Rajagopalachari, (4) Mrs. Sarojini Naidu, (5) Sardar K. M. Panikkar, (6) Mr. K. M. Munshi, (7) Dr. B. R. Ambedkar, (8) Sardar Baldev Singh, (9) Mr. Frank Anthony, (10) Mr. S. N. Gupta, (11) Pandit Hiralal Shastri, (12) Dr. B. Pattabhi Sitaramayya, (13) Mr. Satyanarayan Sinha.

*In attendance :* (1) Mr. H. V. R. Iengar, Secretary and (2) Mr. B. F. H. B. Tyabji, Deputy Secretary. Pandit Jawaharlal Nehru was present by special invitation.

The design of the flag prepared in accordance with the directions given at the first meeting of the committee was approved. It was decided that:

(i) the Hon'ble Pandit Jawaharlal Nehru should move a resolution in the Constituent Assembly in the following terms :

The National Flag shall be a horizontal tricolour of deep saffron (*kesari*), white and dark green in equal proportion. In the centre of the white band, there shall be a Wheel in navy blue to represent the *Charkha*. The design of the Wheel shall be that of the Wheel (*Chakra*) which appears on the abacus of the Sarnath Lion Capitol of Asoka.

The diameter of the Wheel shall approximate to the width of the white band.

The ratio of the width to the length of the flag shall ordinarily be 2:3.

(ii) That samples of the flag decided upon should be prepared and shown to members of the Constituent Assembly when the resolution is moved.

(iii) After the Constituent Assembly has approved the flag, the President of the All India Women's Conference should be formally invited to present a flag of the approved design on behalf of the women of India to the nation.

2. As regards the design of State seal and emblem, it was considered that a decision in this matter was not of immediate urgency, and should be postponed until more designs were prepared.

#### (VII) NEHRU'S SPEECH

Mr. President, it is my proud privilege to move the following Resolution :

*Resolved that the National Flag of India shall be a horizontal tricolour*

*of deep saffron (kesari), white and dark green in equal proportion. In the centre of the white band, there shall be a Wheel in navy blue to represent the Charkha. The design of the Wheel shall be that of the Wheel (Chakra) which appears on the abacus of the Sarnath Lion Capital of Asoka.*

*The diameter of the Wheel shall approximate to the width of the white band.*

*The ratio of the width to the length of the flag shall ordinarily be 2:3.*

This Resolution, Sir, is in simple language, in a slightly technical language, and there is no glow or warmth in the words that I have read. Yet I am sure that many in this House will feel that glow and warmth which I feel at the present moment for behind this Resolution and the Flag which I have the honour to present to this House for adoption lies history, the concentrated history of a short span in a nation's existence. Nevertheless, sometimes in a brief period we pass through the track of centuries. It is not so much the mere act of living that counts but what one does in this brief life that is ours; it is not so much the mere existence of a nation that counts but what that nation does during the various periods of its existence; and I do venture to claim that in the past quarter of a century or so India has lived and acted in a concentrated way and the emotions which have filled the people of India represent not merely a brief spell of years but something infinitely more. They have gone down into history and tradition and have added themselves on to that vast history and tradition which is our heritage in this country. So, when I move this Resolution, I think of this concentrated history through which all of us have passed during the last quarter of a century. Memories crowd in upon me. I remember the ups and downs of the great struggle for freedom of this great nation. I remember, and many in this House will remember how we looked up to this flag not only with pride and enthusiasm but with a tingling in our veins; also how, when we were sometimes down and out, then again the sight of this flag gave us courage to go on. Then, many who are not present here today, many of our comrades who have passed, held on to this flag, some amongst them even unto death, and handed it over as they sank, to others to hold it aloft. So, in this simple form of words, there is much more than will be clear on the surface. There is the struggle of the people for freedom with all its ups and downs and trials and disasters and there is, finally today as I move this Resolution, a certain triumph about it—a measure of triumph in the conclusion of that struggle.

Now, I realise fully, as this House must realise, that this triumph of ours has been marred in many ways. There have been, especially in the past few months, many happenings which cause us sorrow, which has gripped our hearts. We have seen parts of this dear motherland of ours cut off from the rest. We have seen large numbers of people suffering tremendously, large numbers wandering about like waifs and strays, without a home. We

have seen many other things which I need not repeat to this House, but which we cannot forget. All this sorrow has dogged our footsteps. Even when we have achieved victory and triumph, it still dogs us and we have tremendous problems to face in the present and in the future. Nevertheless it is true I think—I hold it to be true—that this moment does represent a triumph and a victorious conclusion of all our struggles, for the moment. (*Hear hear*).

There has been a very great deal of bewailing and moaning about various things that have happened. I am sad, all of us are sad at heart because of those things. But let us distinguish that from the other fact of triumph, because there is triumph in victory, in what has happened. It is no small thing that that great and mighty empire which has represented imperialist domination in this country has decided to end its days here. That was the objective we aimed at.

We have attained that objective or shall attain it very soon. Of that there is no doubt. We have not attained the objective exactly in the form in which we wanted it. The troubles and other things that accompanied our achievement are not to our liking. But we must remember that it is very seldom that people realise the dreams that they have dreamt. It is very seldom that the aims and objectives with which we start are achieved in their entirety in life, in an individual's life or in a nation's life.

We have many examples before us. We need not go into the distant past. We have examples in the present or in the recent past. Some years back, a great war was waged, a world war bringing terrible misery to mankind. That war was meant for freedom and democracy and the rest. That war ended in the triumph of those who said they stood for freedom and democracy. Yet, hardly had that war ended, when there were rumours of fresh wars and fresh conflicts.

Three days ago, this House and this country and the world was shocked by the brutal murder in a neighbouring country of the leaders of the nation. Today one reads in the papers of an attack by an imperialist power on a friendly country in South-East Asia. Freedom is still far off in this world and nations, all nations in greater or lesser degree, are struggling for their freedom. If we in the present have not exactly achieved what we aimed at, it is not surprising. There is nothing in it to be ashamed of. For I do think our achievement is no small achievement. It is a very considerable achievement, a great achievement. Let no man run it down because other things have happened which are not to our liking. Let us keep these two things apart. Look at any country in the wide world. Where is the country today, including the great and big powers, which is not full of terrible problems, which is not in some way, politically and economically, striving for freedom which somehow or other eludes its grasp? The problems of India in this wider context do not appear to be terrible. The problems are not anything new to us. We have faced many disagreeable things in the

past. We have not held back. We shall face all the other disagreeable things that face us in the present or may do so in the future and we shall not flinch and we shall not falter and we shall not quit. (*Loud applause.*)

So, in spite of everything that surrounds us, it is in no spirit of downheartedness that I stand up in praise of this Nation for what it has achieved. (*Renewed cheers.*) It is right and proper that at this moment we should adopt the symbol of this achievement, the symbol of freedom. Now what is this freedom in its entirety and for all humanity? What is freedom and what is the struggle for freedom and when does it end? As soon as you take one step forward and achieve something, further steps come up before you. There will be no full freedom in this country or in the world as long as a single human being is un-free. There will be no complete freedom as long as there is starvation, hunger, lack of clothing, lack of necessities of life and lack of opportunity of growth for every single human being, man, woman and child in the country. We aim at that. We may not accomplish that because it is a terrific task. But we shall do our utmost to accomplish that task and hope that our successors, when they come, may have an easier path to pursue. But there is no ending to that road to freedom. As we go ahead, just as we sometimes in our vanity aim at perfection, perfection never comes. But if we try hard enough we do approach the goal step by step. When we increase the happiness of the people, we increase their stature in many ways and we proceed to our goal. I do not know if there is an end to this or not, but we proceed towards some kind of consumption which in effect never ends.

So, I present this Flag to you. This Resolution defines the Flag which I trust you will adopt. In a sense this Flag was adopted, not by a formal resolution, but by popular acclaim and usage, adopted much more by the sacrifice that surrounded it in the past few decades. We are in a sense only ratifying that popular adoption. It is a Flag which has been variously described. Some people, having misunderstood its significance, have thought of it in communal terms and believe that some part of it represents this community or that. But I may say that when this Flag was devised there was no communal significance attached to it. We thought of a design for a Flag which was beautiful, because the symbol of a nation must be beautiful to look at. We thought of a Flag which would in its combination and in its separate parts would somehow represent the spirit of the nation, the tradition of the nation, that mixed spirit and tradition which has grown up through thousands of years in India. So, we devised this Flag. Perhaps I am partial but I do think that it is a very beautiful Flag to look at purely from the point of view of artistry, and it has come to symbolise many other beautiful things, things of the spirit, things of the mind, that give value to the individual's life and to the nation's life, for a nation does not live merely by material things, although they are highly important. It is important that we should have the good things of the

world, the material possessions of the world, that our people should have the necessities of life. That is of the utmost importance. Nevertheless, a nation, and especially a nation like India with an immemorial past, lives by other things also, the things of the spirit. If India had not been associated with these ideals and things of the spirit during these thousands of years, what would India have been? It has gone through a very great deal of misery and degradation in the past, but somehow even in the depths of degradation, the head of India has been held high, the thought of India has been high, and the ideals of India have been high. So we have gone through these tremendous ages and we stand up today in proud thankfulness for our past and even more so for the future that is to come for which we are going to work and for which our successors are going to work. It is our privilege, of those assembled here, to mark the transition in a particular way, in a way that will be remembered.

I began by saying that it is my proud privilege to be ordered to move this Resolution. Now, Sir, may I say a few words about this particular Flag? It will be seen that there is a slight variation from the one many of us have used during these past years. The colours are the same, a deep saffron, a white and a dark green. In the white previously there was the *Charkha* which symbolised the common man in India, which symbolised the masses of the people, which symbolised their industry and which came to us from the message which Mahatma Gandhi delivered. (*Cheers.*) Now, this particular *Charkha* symbol has been slightly varied in this Flag, not taken away at all. Why then has this been varied? Normally speaking, the symbol on one side of the Flag should be exactly the same as on the other side. Otherwise, there is a difficulty which goes against the rules. Now, the *Charkha*, as it appeared previously on this Flag, had the wheel on one side and the spindle on the other. If you see the other side of the Flag, the spindle comes the other way and the wheel comes this way; if it does not do so, it is not proportionate, because the wheel must be towards the pole, not towards the end of the Flag. There was this practical difficulty. Therefore, after considerable thought, we were of course convinced that this great symbol which had enthused people should continue but that it should continue in a slightly different form, that the wheel should be there, not the rest of the *Charkha*, that is the spindle and the string which created this confusion, that the essential part of the *Charkha* should be there, that is the wheel. So, the old tradition continues in regard to the *Charkha* and the wheel. But what type of wheel should we have? Our minds went back to many wheels but notably one famous wheel, which had appeared in many places and which all of us have seen, the one at the top of the capitol of the Ashoka column and in many other places. That wheel is a symbol of India's ancient culture, it is a symbol of the many things that India had stood for through the ages. So we thought that this *Chakra* emblem should be there, and that wheel appears.

For my part, I am exceedingly happy that in this sense indirectly we have associated with this Flag of ours not only this emblem but in a sense the name of Ashoka, one of the most magnificent names not only in India's history but in world history. It is well that at this moment of strife, conflict and intolerance, our minds should go back towards what India stood for in the ancient days and what it has stood for, I hope and believe, essentially throughout the ages in spite of mistakes and errors and degradations from time to time. For, if India had not stood for something very great, I do not think that India could have survived and carried on its cultural traditions in a more or less continuous manner through these vast ages. It carried on its cultural tradition, not unchanging, not rigid, but always keeping its essence, always adapting itself to new developments, to new influences. That has been the tradition of India, always to put out fresh blooms and flowers, always receptive to the good things that it receives, sometimes receptive to bad things also, but always true to her ancient culture. All manner of new influences through thousands of years have influenced us, while we influenced them tremendously also, for you will remember that India has not been in the past a tight little narrow country, disdaining other countries. India throughout the long ages of her history has been connected with other countries, not only connected with other countries, but has been an international centre, sending out her people abroad to far off countries, carrying her message and receiving the message of other countries in exchange, but India was strong enough to remain embedded on the foundations on which she was built, although changes, many changes, have taken place. The strength of India, it has been said, consists in this strong foundation. It consists also in its amazing capacity to receive, to adapt what it wants to adapt, not to reject because something is outside its scope, but to accept and receive everything. It is folly for any nation or race to think that it can only give to and not receive from the rest of the world. Once a nation or a race begins to think like that, it becomes rigid, it becomes ungrowing; it grows backwards and decays. In fact, if India's history can be traced, India's periods of decay are those when it closed herself up into a shell and refused to receive or to look at the outside world. India's greatest periods are those when she stretched her hands to others in far off countries, sent her emissaries and ambassadors, her trade agents and merchants to these countries and received ambassadors and emissaries from abroad.

Now because I have mentioned the name of Ashoka I should like you to think that the Ashokan period in Indian history was essentially an international period of Indian history. It was not a narrowly national period. It was a period when India's ambassadors went abroad to far countries and went abroad not in the way of an Empire and imperialism but as ambassadors of peace and culture and goodwill. (*Cheers.*)

Therefore this Flag that I have the honour to present to you is not, I hope

and trust, a Flag of Empire, a Flag of Imperialism, a Flag of domination over anybody, but a Flag of freedom not only for ourselves, but a symbol of freedom to all people who may see it. (*Cheers.*) And wherever it may go—and I hope it will go far—not only where Indians dwell as our ambassadors and ministers but across the far seas where it may be carried by Indian ships, wherever it may go it will bring a message, I hope, of freedom to those people, a message of comradeship, a message that India wants to be friends with every country of the world and India wants to help any people who seek freedom. (*Hear, hear.*) That I hope will be the message of this Flag everywhere and I hope that in the freedom that is coming to us, we will not do what many other people or some other people have unfortunately done, that is, in a new-found strength suddenly to expand and become imperialistic in design. If that happened that would be a terrible ending to our struggle for freedom. (*Hear, hear.*) But there is that danger and, therefore, I venture to remind this House of it—although this House needs no reminder—there is this danger in a country suddenly unshackled in stretching out its arms and legs and trying to hit out at other people. And if we do that we become just like other nations who seem to live in a kind of succession of conflicts and preparation for conflict. That is the world today unfortunately.

In some degree I have been responsible for the foreign policy during the past few months and always the question is asked here or elsewhere: "What is your foreign policy? To what group do you adhere to in this warring world?" Right at the beginning I venture to say that we propose to belong to no power group. We propose to function as far as we can as peace-makers and peace-bringers because today we are not strong enough to be able to have our way. But at any rate we propose to avoid all entanglements with power politics in the world. It is not completely possible to do that in this complicated world of ours, but certainly we are going to do our utmost to that end.

It is stated in this Resolution that the ratio of the width to the length of the Flag shall ordinarily be 2:3. Now you will notice the word "ordinarily". There is no absolute standard about the ratio because the same Flag on a particular occasion may have a certain ratio that might be more suitable or on any other occasion in another place the ratio might differ slightly. So there is no compulsion about this ratio. But generally speaking the ratio of 2:3 is a proper ratio. Sometimes the ratio 2:1 may be suitable for a Flag flying on a building. Whatever the ratio may be, the point is not so much the relative length and breadth, but the essential design.

So, Sir, now I would present to you not only the Resolution but the Flag itself.

There are two of these National Flags before you. One is on silk—the one I am holding—and the other on the other side is of cotton *Khadi*.

I beg to move this Resolution. (*Cheers.*)

## (VIII) RADHAKRISHNAN'S SPEECH

Mr. President, Sir, I do not wish to say very much after the very eloquent way in which Pandit Jawaharlal Nehru presented this Flag and the Resolution to you. The Flag links up the past and the present. It is the legacy bequeathed to us by the architects of our liberty. Those who fought under this Flag are mainly responsible for the arrival of this great day of Independence for India. Pandit Jawaharlal has pointed out to you that it is not a day of joy unmixed with sorrow. The Congress fought for unity and liberty. The unity has been compromised; liberty too, I feel, has been compromised, unless we are able to face the tasks which now confront us with courage, strength and vision. What is essential to-day is to equip ourselves with new strength and with new character if these difficulties are to be overcome and if the country is to achieve the great ideal of unity and liberty which it fought for. Times are hard. Everywhere we are consumed by phantasies. Our minds are haunted by myths. The world is full of misunderstandings, suspicions and distrusters. In these difficult days it depends on us under what banner we fight. Here we are putting in the very centre the white, the white of the Sun's rays. The white means the path of light. There is darkness even at noon as some people have urged, but it is necessary for us to dissipate these clouds of darkness and control our conduct by the ideal light, the light of truth, of transparent simplicity which is illustrated by the colour of white.

We cannot attain purity, we cannot gain our goal of truth, unless we walk in the path of virtue. The Ashoka's wheel represents to us the wheel of the Law, the wheel of the *Dharma*. Truth can be gained only by the pursuit of the path of *Dharma*, by the practice of virtue. Truth,—*Satya*, *Dharma*, Virtue, these ought to be the controlling principles of all those who work under this Flag. It also tells us that the *Dharma* is something which is perpetually moving. If this country has suffered in the recent past, it is due to our resistance to change. There are ever so many challenges hurled at us and if we have not got the courage and the strength to move along with the times, we will be left behind. There are ever so many institutions which are worked into our social fabric like caste and untouchability. Unless these things are scrapped, we cannot say that we either seek truth or practise virtue. This wheel, which is a rotating thing, which is a perpetually revolving thing, indicates to us that there is death in stagnation. There is life in movement. Our *Dharma* is *Sanatana*, eternal, not in the sense that it is a fixed deposit but in the sense that it is perpetually changing. Its uninterrupted continuity is its *Sanatana* character. So even with regard to our social conditions it is essential for us to move forward.

The red, the orange, the *Bhagwa* colour represents the spirit of renunciation. It is said :

*Sarve tyaga rajadharmesu drsta*



All forms of renunciation are to be embodied in *Raja Dharma*, Philosophers must be Kings. Our leaders must be disinterested. They must be dedicated spirits. They must be people who are imbued with the spirit of renunciation which that saffron colour has transmitted to us from the beginning of our history. That stands for the fact that the World belongs not to the wealthy, not to the prosperous but to the meek and the humble, the dedicated and the detached. That spirit of detachment, that spirit of renunciation is represented by the orange or the saffron colour and Mahatma Gandhi has embodied it for us in his life and the Congress has worked under his guidance and with his message. If we are not imbued with that spirit of renunciation in these difficult days, we will again go under.

The green is there—our relation to the soil, our relation to the plant life here on which all other life depends. We must build our Paradise here on this green earth. If we are to succeed in this enterprise, we must be guided by truth (white), practise virtue (wheel), adopt the method of self-control and renunciation (saffron). This Flag tells us 'Be ever alert, be ever on the move, go forward, work for a free, flexible, compassionate, decent, democratic society in which Christians, Sikhs, Moslems, Hindus, Buddhists will all find a safe shelter.'

Thank you. (*Loud cheers.*)

#### (IX) MOHAMMAD SAADULLA'S SPEECH

Mr. President, Sir, my intervention in this debate was not at all necessary, in view of the very learned and able speech of Pandit Jawaharlal Nehru and speeches from other quarters. The reason for my standing before you is that I want to make perfectly clear our position. The Muslim members who are in this House in spite of the fact that you have extended to them *swagatam* on the very first day, are looked upon by some members with distrust and attempts were made to debar us from participating in this august Assembly unless we disclaim certain opinions we hold. I have seen in the press certain references that the Muslim members in the Constituent Assembly are unwanted, and some papers had gone to the length of saying that the Muslim members here will be fifth columnists and saboteurs of the constitution. I am very glad that the Resolution of Pandit Nehru gives us a chance of belying these aspersions and removing distrust by proclaiming from the housetops our allegiance to the Union of India where by accident of residence and birth we happen to be. It is the injunction of Islam, emphasized by instructions from League High Command and leaders, that wherever we be we must be good and loyal to the government which functions there. Acting on that principle I salute the Flag which has been presented to the House by Pandit Nehru.

In my opinion the Flag symbolises the evolution of our aspirations, the fulfilment of our struggles and the ultimate result of all our sacrifices. If

I may be permitted to draw an analogy from nature, the saffron represents the condition of the earth, the scorched condition caused by the torrid heat of the Indian Sun. When the crystal-clear white raindrops and the water from the snow-capped mountains and rivers comes down we get our arid areas converted into smiling green fields the crops of which sustain us and conduce to the growth of the people. Similarly we had in our political struggle our scorched earth days but later on came our days of hope and today this Flag unfurled in this House has brought us to the culminating point, the desiderata of our past struggles. I am glad, Sir, that the Flag remains as it is and that the amendments proposed were not moved, for India is represented in the different colours of this Flag. India is very well noted for her spiritual attainments. Everywhere it is admitted that India has got a great spiritual message to send out to the different countries of the world. The saffron, as is well known, is the colour of all those people who live the spiritual life not only among Hindus but also among Muslims. Therefore the saffron colour should remind us that we should keep ourselves on that high plane of renunciation which has been the realm of our *Sadhus* and saints, *Pirs* and *Pandits*. I therefore welcome the inclusion of this colour in the Flag.

Next I come to the white portion. White both among Hindus and Muslims is the emblem of purity. I congratulate the High Command of the Indian National Congress that by a bold stroke of imagination they took up the white cap as the symbol of their creed. The presence of the white portion in this Flag should remind every one who takes it up that we must be pure not only in word but also in deed. Purity should be the motto of our life, individually as well as in connection with the State.

Lastly, Sir, green reminds me of the fact that it was the emblem of the upsurge of India's freedom. Green was the emblem of the Flag which was raised by Bahadur Shah in 1857. But it has more than a sentimental or symbolical value to us Muslims because green was the colour of the Flag of the Muslims from the time of the great Prophet of Arabia thirteen centuries ago. Some may regret that the *Charkha* which was the emblem of the masses has been replaced by the *Dharmachakra* of Ashoka. But I consider that it was really a heavenborn inspiration of the authorities that this *Chakra* now takes the place of the *Charkha*. Although the *Charkha* was the emblem of our self-help and of our approach to the common masses and was embodied in our activities by the message of the Mahatma, yet towards the later stage the ideal of *Charkha* had been polluted, the instruction or inspiration of Mahatma Gandhi had been deviated from and those who wore the *Charkha* which was the symbol of non-violence were most violent in their actions which at one time Pandit Nehru had at great personal risk to assuage. The *Dharmachakra* of Ashoka reminds us of the condition of the people at the time of that great Buddhist Emperor of India. He ruled not for his personal aggrandisement but for the contentment, peace

and prosperity of the people under his charge. This emblem now embodied in our National Flag ought to remind every administrator and every citizen of the federation of India that we should forget the past and look to the future and try to carry on the tradition of that great Buddhist Emperor Ashoka, and we should be reminded at all times that we are here not only for our material prosperity but also for our spiritual advancement. This *Chakra* was a religious emblem and we cannot dissociate our social life from our religious environments.

Sir, with these few words not only on behalf of myself but also as Deputy Leader of the Muslim League Party and as an old inhabitant of the furthest and the smallest province of the Indian Union, Assam, I salute this Flag as a symbol of India's freedom.

#### (x) SHRIMATI SAROJINI NAIDU'S SPEECH

Mr. President, the House knows that I had refused over and over again this morning to speak. I thought that the speech of Jawaharal Nehru—so epic in its quality of beauty, dignity and appropriateness—was sufficient to express the aspirations, emotions and the ideals of this House. But I was happy when I saw the representatives of the various communities that constitute this House rise up and pledge their allegiance to this Flag. I was especially reminded by the people that sit behind me from the Province of Bihar that it was at the risk of my life and seat in their province, should I forget to mention that this Flag, so willingly and proudly accepted today by the House, has for its symbol the *Dharma Chakra* of Ashoka, whom they claim (I do not know with what historical veracity) to be a Bihari! But if I am speaking here today, it is not on behalf of any community, or any creed or any sex, though women members of this House are very insistent that a woman should speak. I think that the time has come in the onward march of the world-civilisation when there should be no longer any sex consciousness or sex separation in the service of the country. I therefore speak on behalf of that ancient reborn Mother with her undivided heart and indivisible spirit, whose love is equal for all her children, no matter what corner they come from, in what temples or mosques they worship, what language they speak or what culture they profess.

Many many times in the course of my long life, in my travels abroad—for I am vagabond by nature and by destiny—I have suffered the most terrible moments of anguish in free countries, because India possessed no flag. A few of those moments I would like to recall.

On the day when peace was signed at Versailles after the last war, I happened to be in Paris. There was great rejoicing everywhere and flags of all nations decorated the Opera House. There came on the platform a famous actress with a beautiful voice, for whom the proceedings were interrupted while she wrapped round herself the flag of France. The entire

audience rose as one man and sang with her the National Anthem of France—the Marseillaise. An Indian near me with tears in his eyes turned to me and said “When shall we have our own Flag?” “The time will soon come”, I answered, “when we shall have our own Flag and our own Anthem”.

I was asked to speak at a peace celebration in New York soon after the peace had been signed. Forty-four Nations had their Flags fluttering in the great hall in which the Assembly met. I looked at the Flags of all the Nations and when I spoke I cried that though I did not see in that great Assembly of Free Nations the Flag of Free India, it would become the most historic Flag of the world in the not distant future.

It was also a moment of anguish for me when a few months later forty-two Nations sent their women to an International Conference in Berlin. There they were planning to have, one morning, a Flag parade of the Nations. India had no official Flag. But at my suggestion some of the women Indian delegates tore strips from their saris, sitting up till the small hours of the morning to make the Tri-colour Flag, so that our country should not be humiliated for the lack of a National Banner.

But the worst anguish of all was only a few months ago, when on the inspiration of Jawaharlal Nehru the Nations of Asia met in Delhi and affirmed the unity of Asia. On the wall behind the platform there was the flag of every nation of Asia. Iran was there, China was there, Afghanistan was there, as also Siam. Big countries and little countries were all represented but we had exercised a self-denying ordinance, so that we might scrupulously keep our pledge that no party politics would be permitted at the conference. Can you not understand and share with me the anguish of that decision which excluded the Tri-colour of the Congress Flag from the Asian Conference? But here today we retrieve that sorrow and that shame: we attain our own Flag, the Flag of Free India. Today we justify, we vindicate and we salute this Flag under which so many hundreds and thousands of us have fought and suffered. Men and women, old and young, princes and peasants, Hindus and Muslims, Sikhs, Jains, Christians, Zorostrians, all of them have fought under this Flag. When my friend Khaliqzaman was speaking, I saw before me the great patriots, my friends and comrades of the Muslim community who had suffered under this Flag. I thought of Mahomed Ali, of Shaukat Ali, of Ansari and of Ajmal Khan. I could mention the smallest community in India, the Parsi community, the community of that grand old man Dadabhai Naoroji, whose grand-daughters too fought side by side with the others, suffered imprisonment and made sacrifices for the freedom of India. I was asked by a man who was blind with prejudice: ‘How can you speak of this flag as the flag of India? India is divided.’ I told him that this is merely a temporary geographical separation. There is no spirit of separation in the heart of India. (*Hear, hear.*) Today I ask one and all to honour this Flag. That wheel, what does it represent? It represents the *Dharma Chakra* of Ashoka the Magnificent

who sent his message of peace and brotherhood all over the world. Did he not anticipate the modern ideal of fellowship and brotherhood and cooperation? Does not that wheel stand as a symbol for every national interest and national activity? Does it not represent the *Charkha* of my illustrious and beloved leader, Mahatma Gandhi and the wheel of time that marches and marches and marches without hesitation and without halt? Does it not represent the rays of the Sun? Does it not represent eternity? Does it not represent the human mind? Who shall live under that Flag without thinking of the common India? Who shall limit its functions? Who shall limit its inheritance? To whom does it belong? It belongs to India. It belongs to all India. Pandit Jawaharlal Nehru told us that India has never been exclusive. I wish he had added : 'India welcomes all knowledge from friend and foe alike'. Did she not? Have not all the cultures of the world contributed to the ocean of her culture? Has Islam not brought to India the ideals of democratic brotherhood, the Zoroastrian his steadfast courage, who fled from Iran with a blazing log from their fire-temple, whose flame has not perished these thousand years? Have not the Christians brought to us the lesson of service to the humblest of the land? Has not the immemorial Hindu creed taught us universal love of mankind and has it not taught us that we shall not judge merely by our own narrow standard but that we should judge by the universal standard of humanity?

Many of my friends have spoken of this Flag with the poetry of their own hearts. I as a poet and as a woman, I am speaking prose to you today when I say that we women stand for the unity of India. Remember under this Flag there is no prince and there is no peasant, there is no rich and there is no poor. There is no privilege; there is only duty and responsibility and sacrifice. Whether we be Hindus or Muslims, Christians, Jains, Sikhs or Zoroastrians and others, our Mother India has one undivided heart and one indivisible spirit. Men and women of reborn India, rise and salute this Flag! I bid you, rise and salute the Flag. (*Loud cheers.*)

PRASAD-NEHRU CORRESPONDENCE  
REGARDING THE NATIONAL FLAG

July 27, 1947

*[The President of the Constituent Assembly, Rajendra Prasad, was of the opinion that the resolution on the National Flag should specify that the cloth for making the flag would invariably be hand-spun and hand-woven (khaddar). Nehru fully agreed with the President's views; the necessary amendments were immediately made and various Government departments and Provincial Governments were informed accordingly. The correspondence between Rajendra Prasad and Nehru is reproduced below.]*

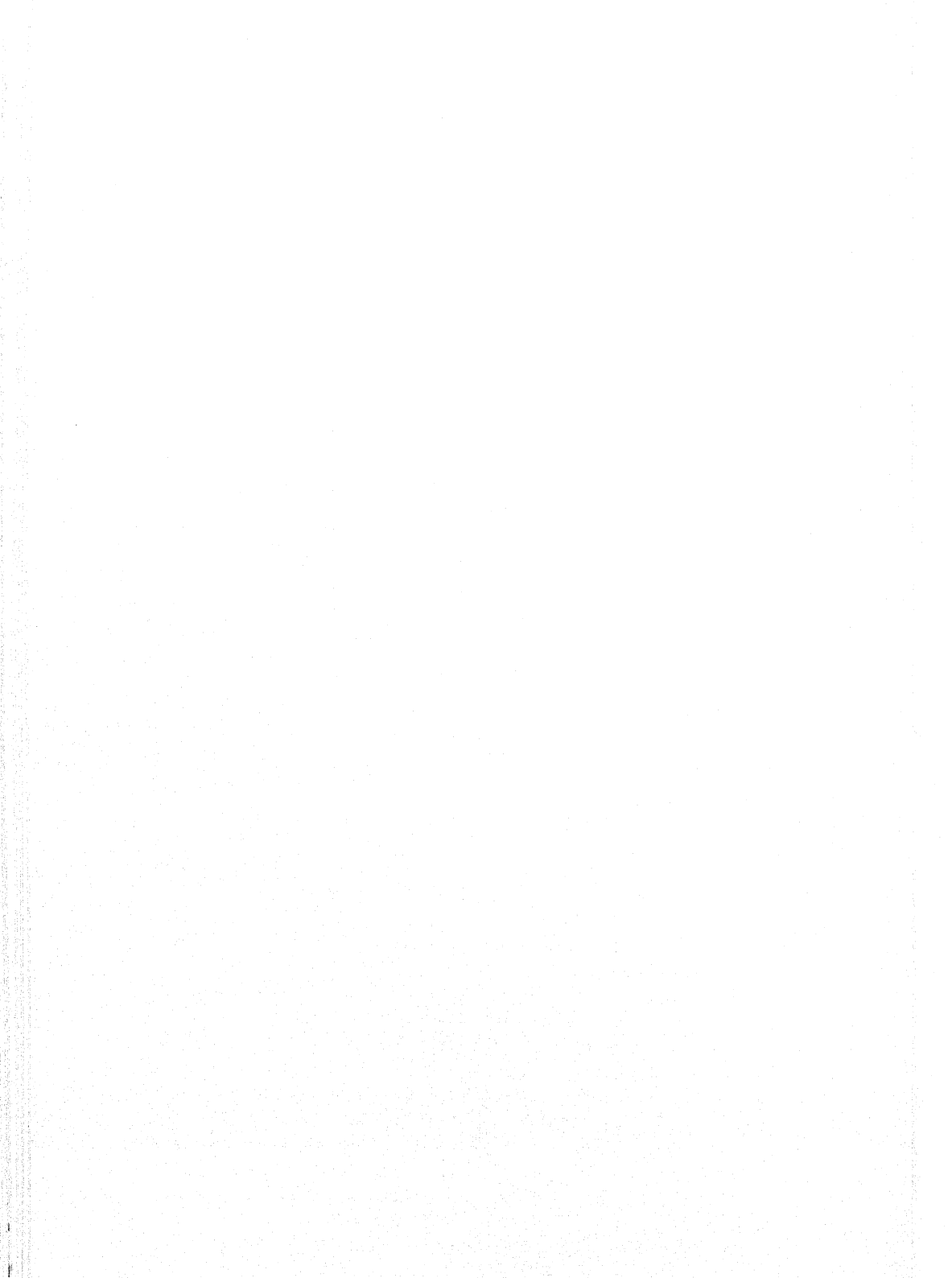
## (I) RAJENDRA PRASAD'S LETTER TO NEHRU

July 27, 1947

WHEN THE QUESTION of the National Flag was being considered by the sub-committee I suggested that the resolution should definitely state that the cloth of which the flag is made should be hand-spun and hand-woven—whether of cotton, silk or wool. I understood from what was said that it was not necessary to state it in the resolution but that that would be the case. I have been informed that the Constituent Assembly office has placed orders for 3,000 flags with some textile mill. I have just issued an instruction to the office that the order, if placed, should be cancelled and that only hand-spun and hand-woven cloth should be used for flags in the Constituent Assembly. I imagine similar orders may have been placed by other departments, particularly those in charge of the ceremonies on the 15th August. I strongly feel that at least flags on Government buildings and flags purchased at Government cost should be of pure hand-spun and hand-woven *khaddar* and orders to that effect should be passed by the Government not only for the departments in Delhi but also for Provincial Governments which are likely to use flags very largely on the 15th August. Apart from the fact that the use of any other cloth will touch Bapu to the quick and will alienate him still further from us, I think we should not discard *khadi* in an indirect manner, and if we wish to discard it we should do it openly and directly after taking a deliberate decision to that effect.

(II) NEHRU'S LETTER TO RAJENDRA PRASAD  
July 27, 1947

I have your letter of the 27th July about the flag. I quite agree with you that flags made for governmental purposes should be of *Khadi*, either cotton or silk. Various Government departments and Provincial Governments should be informed of this.





PART SEVEN  
TRANSFER OF POWER



BRITISH PRIME MINISTER'S STATEMENT  
February 20, 1947

*[On February 20, 1947, Prime Minister Attlee made a statement in the House of Commons announcing the British Government's definite intention of taking the necessary steps to effect the peaceful transfer of power into responsible Indian hands by a date not later than June 1948. The statement also reiterated the British Government's policy of bringing to an end the Paramountcy of the Crown in relation to the princely States. The statement and connected papers are reproduced below.]*

(I) PRIME MINISTER ATTLEE'S STATEMENT  
February 20, 1947

I. INDIAN POLICY

IT HAS LONG BEEN the policy of successive British Governments to work towards the realisation of self-government in India. In pursuance of this policy an increasing measure of responsibility has been devolved on Indians, and today the civil administration and the Indian Armed Forces rely to a very large extent on Indian civilians and officers. In the constitutional field, the Acts of 1919 and 1935 passed by the British Parliament each represented a substantial transfer of political power. In 1940 the Coalition Government recognised the principle that Indians should themselves frame a new constitution for a fully autonomous India and in the Offer of 1942 they invited them to set up a Constituent Assembly for this purpose as soon as the war was over.

2. His Majesty's Government believe this policy to have been right and in accordance with sound democratic principles. Since they came into office, they have done their utmost to carry it forward to its fulfilment. The declaration of the Prime Minister of 15th March last, which met with general approval in Parliament and the country, made it clear that it was for the Indian people themselves to choose their future status and constitution and that in the opinion of His Majesty's Government the time had come for responsibility for the Government of India to pass into Indian hands.

3. The Cabinet Mission which was sent to India last year spent over three

months in consultation with Indian leaders in order to help them to agree upon a method for determining the future Constitution of India, so that the transfer of power might be smoothly and rapidly effected. It was only when it seemed clear that without some initiative from the Cabinet Mission agreement was unlikely to be reached that they put forward proposals themselves.

4. These proposals, made public in May last, envisaged that the future Constitution of India should be settled by a Constituent Assembly composed, in the manner suggested therein, of representatives of all communities and interests in British India and of the Indian States.

5. Since the return of the Mission, an Interim Government has been set up at the Centre composed of the political leaders of the major communities, exercising wide powers within the existing constitution. In all the Provinces Indian Governments responsible to Legislatures are in office.

6. It is with great regret that His Majesty's Government find that there are still differences among Indian parties which are preventing the Constituent Assembly from functioning as it was intended that it should. It is of the essence of the plan that the Assembly should be fully representative.

7. His Majesty's Government desire to hand over their responsibility to authorities established by a constitution approved by all parties in India in accordance with the Cabinet Mission's plan. But unfortunately there is at present no clear prospect that such a constitution and such authorities will emerge. The present state of uncertainty is fraught with danger and cannot be indefinitely prolonged. His Majesty's Government wish to make it clear that it is their definite intention to take necessary steps to effect the transference of power into responsible Indian hands by a date not later than June 1948.

8. This great sub-continent now containing over four hundred million people has for the last century enjoyed peace and security as a part of the British Commonwealth and Empire. Continued peace and security are more than ever necessary today if the full possibilities of economic development are to be realised and a higher standard of life attained by the Indian people.

9. His Majesty's Government are anxious to hand over their responsibilities to a Government which, resting on the sure foundation of the support of the people, is capable of maintaining peace and administering India with justice and efficiency. It is therefore essential that all parties should sink their differences in order that they may be ready to shoulder the great responsibilities which will come upon them next year.

10. After months of hard work by the Cabinet Mission a great measure of agreement was obtained as to the method by which a constitution should be worked out. This was embodied in their statements of May last. His Majesty's Government there agreed to recommend to Parliament a constitution worked out in accordance with the proposals made therein by a fully

representative Constituent Assembly. But if it should appear that such a constitution will not have been worked out by a fully representative Assembly before the time mentioned in paragraph 7 His Majesty's Government will have to consider to whom the powers of the Central Government in British India should be handed over, on the due date, whether as a whole to some form of Central Government for British India, or in some areas to the existing Provincial Governments, or in such other way as may seem most reasonable and in the best interests of the Indian people.

11. Although the final transfer of authority may not take place until June 1948, preparatory measures must be put in hand in advance. It is important that the efficiency of the civil administration should be maintained and that the defence of India should be fully provided for. But, inevitably, as the process of transfer proceeds, it will become progressively more difficult to carry out to the letter all the provisions of the Government of India Act, 1935. Legislation will be introduced in due course to give effect to the final transfer of power.

12. In regard to the Indian States, as was explicitly stated by the Cabinet Mission, His Majesty's Government do not intend to hand over their powers and obligations under paramountcy to any Government of British India. It is not intended to bring Paramountcy, as a system, to a conclusion earlier than the date of the final transfer of power, but it is contemplated that for the intervening period the relations of the Crown with individual States may be adjusted by agreement.

13. His Majesty's Government will negotiate agreements in regard to matters arising out of the transfer of power with the representatives of those to whom they propose to transfer power.

14. His Majesty's Government believe that British commercial and industrial interests in India can look forward to a fair field for their enterprise under the new conditions. The commercial connection between India and the United Kingdom has been long and friendly and will continue to be to their mutual advantage.

15. His Majesty's Government cannot conclude this statement without expressing on behalf of the people of this country, their goodwill and good wishes towards the people of India as they go forward to this final stage in their achievement of self-government. It will be the wish of everyone in these islands that, notwithstanding constitutional changes, the association of the British and Indian peoples should not be brought to an end; and they will wish to continue to do all that is in their power to further the well-being of India.

## II. CHANGE OF VICEROY

The House will now wish to know of an announcement which is being made public today. Field Marshal the Right Honourable Viscount Wavell was

appointed Viceroy in 1943, after having held high military command in the Middle East, South-East Asia and India with notable distinction since the beginning of the war. It was agreed that this should be a war-time appointment. Lord Wavell has discharged this high office during this very difficult period with devotion and a high sense of duty. It has, however, seemed that the opening of a new and final phase in India is an appropriate time to terminate this war appointment. His Majesty has been pleased to approve, as successor to Lord Wavell, the appointment of Admiral the Viscount Mountbatten of Burma, who will be entrusted with the task of transferring to Indian hands the responsibility for the government of British India in a manner that will best ensure the future happiness and prosperity of India. The change of office will take place during March. The House will be glad to hear that His Majesty has been pleased to approve the conferment of an Earldom on Viscount Wavell.

## (II) NEHRU'S STATEMENT

February 22, 1947

\* \* \*

The clear and definite declaration that the final transfer of power will take place by a date not later than June 1948 not only removes all misconception and suspicion, but also brings reality and a certain dynamic quality to the present situation in India. That decision will undoubtedly have far-reaching consequences and puts a burden and responsibility on all concerned.

The work of the Constituent Assembly must now be carried on with greater speed so that the new and independent India may take shape and be clothed with a constitution worthy of her and bringing relief and opportunity to all her children. In this great work we invite afresh all those who have kept aloof and we ask all to be partners in this joint and historic undertaking casting aside fear and suspicion.

The Constituent Assembly, however constituted, can only proceed with its work on a voluntary basis. There can be no compulsion, except the compulsion of events, which none can ignore. The moment British rule goes, the responsibility for the governance of India must inevitably rest on her people and their representatives alone. They will have to shoulder that responsibility. Why then should we not accept this responsibility now and work together to find integrated solutions of our problems? No external authority is going to help or hinder us in future.

The British Government on behalf of their people have expressed their goodwill and good wishes to the people of India. We have had a long past of conflict and ill-will. But we earnestly hope that this past is over. We look forward to a peaceful and co-operative transition and to the

establishment of close and friendly relations with the British people for the mutual advantage of both countries and for the advancement of the cause of peace and freedom all over the world.

### (III) CONGRESS RESOLUTION

March 6—8, 1947

The Working Committee welcome the declaration made on behalf of the British Government of their definite intention to transfer power finally by a date not later than June 1948 and to take steps to that end in advance.

The transfer of power, in order to be smooth, should be preceded by the recognition in practice of the Interim Government as a Dominion Government with effective control over the Services and administration, and the Viceroy and Governor-General functioning as the constitutional head of the Government. The Central Government must necessarily function as a Cabinet with full authority and responsibility. Any other arrangement is incompatible with good government and is peculiarly dangerous during a transitional period full of political and economic crisis.

The Congress has already expressed its acceptance of the British Cabinet Mission's scheme of May 16th 1946, and has further accepted the interpretations put upon it by the British Cabinet on December 6, 1946. In accordance therewith, the Constituent Assembly has been functioning and has appointed various committees to carry on its work. It has become all the more essential now to expedite this work so that the constitution for an Indian Union and its constituent units should be finally prepared and given effect to well within the stated period to facilitate the final transfer of power.

The Working Committee welcome the decision of a number of States to join the Constituent Assembly and trust that all the States and their peoples will be effectively represented in this task of making a constitution for an Indian Union. The committee invite afresh the representatives of the Muslim League, who have been elected to the Constituent Assembly, to join in this historic undertaking.

The work of the Constituent Assembly is essentially voluntary. The Working Committee have frequently stated that there can or should be no compulsion in the making of a Constitution for India. It is the fear of compulsion or coercion that has given rise to distrust and suspicion and conflict. If this fear goes, as it must, it will be easy to determine India's future so as to safeguard the rights of all communities and give equal opportunities to all. It has been made clear that the constitution framed by the Constituent Assembly will apply only to those areas which accept it. It must also be understood that any Province or part of a Province which accepts the constitution and desires to join the Union cannot be prevented from doing so. Thus there must be no compulsion either way, and the people

will themselves decide their future. This peaceful and co-operative method is the only way to make democratic decisions with the maximum of consent.

In this hour when final decisions have to be taken, and the future of India has to be shaped by Indian minds and hands, the Working Committee earnestly call upon all parties and groups, and all Indians generally, to discard violent and coercive methods, and co-operate peacefully and democratically in the making of a constitution. The time for decision has come and no one can stop it or stand by and remain unaffected. The end of an era is at hand and a new age will soon begin. Let this dawn of the new age be ushered in bravely leaving hates and discords in the dead past.

In view of new developments which are leading to a swift transfer of power in India it has become incumbent on the people of India to prepare themselves jointly and co-operatively for this change, so that this may be effected peacefully and to the advantage of all. The Working Committee, therefore, invite the All India Muslim League to nominate representatives to meet representatives of the Congress in order to consider the situation that has arisen and to devise means to meet it.

The Working Committee will keep in close touch with the representatives of the Sikhs and other groups concerned, with a view to co-operating with them in the steps that may have to be taken and in safeguarding their interests.



## THE MOUNTBATTEN PLAN

June 3, 1947

*[When Mountbatten arrived in India on March 22, 1947 he found a highly charged political atmosphere. The Muslim League had launched what it called "direct action" for the achievement of Pakistan. The League was also conducting a sort of disobedience movement against the Congress ministries in the Provinces. At first, Mountbatten tried to find an agreed solution on the basis of the Cabinet Mission's Plan but finding that agreement was impossible on that basis he evolved the outlines of an alternative plan which was revised in the light of discussions with the Governors of Provinces and the leaders of political parties and was sent to London on May 27, 1947. The Plan as accepted by the British Cabinet was announced by Prime Minister Attlee in the House of Commons on June 3; it came to be known as "the June 3rd Plan" or "The Mountbatten Plan". The plan finally settled the issue of partition; in the case of Bengal, Baluchistan, Punjab and Sind, provision was made to ascertain the wishes of the people through the members of the provincial legislatures whether they wanted their constitution to be framed by the existing Constituent Assembly. In Bengal and the Punjab the members of the Provincial Assemblies were to meet in two parts: one representing the Muslim-majority districts and the other the rest of the Province, and if either part decided in favour of partition of the Province it was to be partitioned. The Plan also provided for the appointment of a Boundary Commission for these Provinces if it was decided to partition them. In N.W.F.P., referendum was to determine whether that Province would join India or Pakistan. A referendum for a similar purpose was to be held in the Sylhet district of Assam. The Constituent Assembly was to be divided into two sections representing members from Pakistan and India. The Congress most regretfully accepted the Plan. The June 3rd Plan and connected papers are reproduced below.]*

## (I) H. M. G'S STATEMENT

June 3, 1947

## INTRODUCTION

ON FEBRUARY 20TH, 1947, His Majesty's Government announced their

intention of transferring power in British India to Indian hands by June 1948. His Majesty's Government had hoped that it would be possible for the major parties to co-operate in the working out of the Cabinet Mission's Plan of May 1946 and evolve for India a constitution acceptable to all concerned. This hope has not been fulfilled.

2. The majority of the representatives of the provinces of Madras, Bombay, the United Provinces, Bihar, Central Provinces and Berar, Assam, Orissa and the North-West Frontier Province, and the representatives of Delhi, Ajmer-Merwara and Coorg have already made progress in the task of evolving a new constitution. On the other hand, the Muslim League Party, including in it a majority of the representatives of Bengal, the Punjab and Sind as also the representative of British Baluchistan, has decided not to participate in the Constituent Assembly.

3. It has always been the desire of His Majesty's Government that power should be transferred in accordance with the wishes of the Indian people themselves. This task would have been greatly facilitated if there had been agreement among the Indian political parties. In the absence of such agreement, the task of devising a method by which the wishes of the Indian people can be ascertained has devolved upon His Majesty's Government. After full consultation with political leaders in India, His Majesty's Government have decided to adopt for this purpose the plan set out below. His Majesty's Government wish to make it clear that they have no intention of attempting to frame any ultimate Constitution for India; this is a matter for the Indians themselves. Nor is there anything in this plan to preclude negotiations between communities for a United India.

#### THE ISSUES TO BE DECIDED

4. It is not the intention of His Majesty's Government to interrupt the work of the existing Constituent Assembly. Now that provision is made for certain provinces specified below, His Majesty's Government trust that, as a consequence of this announcement, the Muslim League representatives of those Provinces, a majority of whose representatives are already participating in it, will now take their due share in its labours. At the same time, it is clear that any constitution framed by this Assembly cannot apply to those parts of the country which are unwilling to accept it. His Majesty's Government are satisfied that the procedure outlined below embodies the best practical method of ascertaining the wishes of the people of such areas on the issue whether their constitution is to be framed: (a) in the existing Constituent Assembly; or (b) in a new and separate Constituent Assembly consisting of the representatives of those areas which decide not to participate in the existing Constituent Assembly. When this has been done it will be possible to determine the authority or authorities to whom power should be transferred.

## BENGAL AND THE PUNJAB

5. The Provincial Legislative Assemblies of Bengal and the Punjab (excluding the European members) will, therefore, each be asked to meet in two parts, one representing the Muslim majority districts and the other the rest of the Provinces. For the purposes of determining the population of districts, the 1941 census figures will be taken as authoritative. The Muslim majority districts in these two Provinces are set out in the Appendix to this Announcement.

6. The members of the two parts of each Legislative Assembly sitting separately will be empowered to vote whether or not the Province should be partitioned. If a simple majority of either part decides in favour of partition division will take place and arrangements will be made accordingly.

7. Before the question as to the partition is decided, it is desirable that the representatives of each part should know in advance which Constituent Assembly the Province as a whole would join in the event of the two parts subsequently deciding to remain united. Therefore, if any member of either Legislative Assembly so demands, there shall be held a meeting of all members of the Legislative Assembly (other than Europeans) at which a decision will be taken on the issue as to which Constituent Assembly the Province as a whole would join if it were decided by the two parts to remain united.

8. In the event of partition being decided upon, each of the Legislative Assembly will, on behalf of the areas they represent, decide which of the alternatives in paragraph 4 above to adopt.

9. For the immediate purpose of deciding on the issue of partition, the members of the Legislative Assemblies of Bengal and the Punjab will sit in two parts according to Muslim majority districts (as laid down in the Appendix) and non-Muslim majority districts. This is only a preliminary step of a purely temporary nature as it is evident that for the purposes of a final partition of these Provinces a detailed investigation of boundary questions will be needed; and, as soon as a decision involving partition has been taken for either Province, a Boundary Commission will be set up by the Governor-General the membership and terms of reference of which will be settled in consultation with those concerned. It will be instructed to demarcate the boundaries of the two parts of the Punjab on the basis of ascertaining the contiguous majority areas of Muslims and non-Muslims. It will also be instructed to take into account other factors. Similar instructions will be given to the Bengal Boundary Commission. Until the report of a Boundary Commission has been put into effect, the provisional boundaries indicated in the Appendix will be used.

## SIND

10. The Legislative Assembly (excluding the European Members) will, at a special meeting also take its own decision on the alternatives in paragraph 4 above.

## NORTH-WEST FRONTIER PROVINCE

11. The position of the North-West Frontier Province is exceptional. Two of the three representatives of this Province are already participating in the existing Constituent Assembly. But it is clear, in view of its geographical situation and other considerations, that if the whole or any part of the Punjab decides not to join the existing Constituent Assembly, it will be necessary to give the North-West Frontier Province an opportunity to reconsider its position. Accordingly, in such an event, a referendum will be made to the electors of the present Legislative Assembly in the North-West Frontier Province to choose which of the alternatives mentioned in paragraph 4 above they wish to adopt. The referendum will be held under the aegis of the Governor-General in consultation with the Provincial Government.

## BRITISH BALUCHISTAN

12. British Baluchistan has elected a member, but he has not taken his seat in the existing Constituent Assembly. In view of its geographical situation, this Province will also be given an opportunity to reconsider its position and to choose which of the alternatives in paragraph 4 above to adopt. His Excellency the Governor-General is examining how this can most appropriately be done.

## A S S A M

13. Though Assam is predominantly a non-Muslim Province, the district of Sylhet which is contiguous to Bengal is predominantly Muslim. There has been a demand that, in the event of the partition of Bengal, Sylhet should be amalgamated with the Muslim part of Bengal. Accordingly, if it is decided that Bengal should be partitioned, a referendum will be held in Sylhet district under the aegis of the Governor-General and in consultation with the Assam Provincial Government to decide whether the district of Sylhet should continue to form part of the Assam Province or should be amalgamated with the new Province of Eastern Bengal, if that Province agrees. If the referendum results in favour of amalgamation with Eastern Bengal, a Boundary Commission with terms of reference similar to those for the Punjab and Bengal will be set up to demarcate the Muslim majority areas of Sylhet district and contiguous Muslim majority areas of adjoining districts, which will then be transferred to Eastern Bengal. The rest of the Assam Province will in any case continue to participate in the proceedings of the existing Constituent Assembly.

## REPRESENTATION IN CONSTITUENT ASSEMBLIES

14. If it is decided that Bengal and the Punjab should be partitioned, it

will be necessary to hold fresh elections to choose their representatives on the scale of one for every million of population according to the principle contained in the Cabinet Mission's Plan of May 16th, 1946. Similar elections will also have to be held for Sylhet in the event of it being decided that this district should form part of East Bengal. The number of representatives to which each area would be entitled is as follows:

Description of Constituency/Province	Number of members			
	General	Muslims	Sikhs	Total
Sylhet District	1	2	Nil	3
West Bengal	15	4	Nil	19
East Bengal	12	29	Nil	41
West Punjab	3	12	2	17
East Punjab	6	4	2	12

15. In accordance with the mandates given to them the representatives of the various areas will either join the existing Constituent Assembly or form the new Constituent Assembly.

#### ADMINISTRATIVE MATTERS

16. Negotiations will have to be initiated as soon as possible on the administrative consequences of any partition that may have been decided upon:

- (a) Between the representatives of the respective successor authorities about all subjects now dealt with by the Central Government, including Defence, Finance and Communications.
- (b) Between different successor authorities and His Majesty's Government for treaties in regard to matters arising out of the transfer of power.
- (c) In the case of Provinces that may be partitioned, as to the administration of all provincial subjects such as the division of assets and liabilities, the police and other services, the High Courts, provincial institutions, etc.

#### THE TRIBES OF THE NORTH-WEST FRONTIER

17. Agreements with the tribes of the North-West Frontier of India will have to be negotiated by the appropriate successor authority.

#### THE STATES

18. His Majesty's Government wish to make it clear that the decisions announced above relate only to British India and that their policy towards Indian States contained in the Cabinet Mission Memorandum of 12th May 1946 remains unchanged.

## NECESSITY FOR SPEED

19. In order that the successor authorities may have time to prepare themselves to take over power, it is important that all the above processes should be completed as quickly as possible. To avoid delay, the different Provinces or parts of Provinces will proceed independently as far as practicable within the conditions of this Plan. The existing Constituent Assembly and the new Constituent Assembly (if formed) will proceed to frame constitutions for their respective territories: they will of course be free to frame their own rules.

## IMMEDIATE TRANSFER OF POWER

20. The major political parties have repeatedly emphasized their desire that there should be the earliest possible transfer of power in India. With this desire His Majesty's Government are in full sympathy and they are willing to anticipate the date of June, 1948, for the handing over of power by the setting up of an independent Indian Government or Governments at an even earlier date. Accordingly, as the most expeditious, and indeed the only practicable way of meeting this desire, His Majesty's Government propose to introduce legislation during the current session for the transfer of power this year on a Dominion Status basis to one or two successor authorities, according to the decisions taken as a result of this announcement. This will be without prejudice to the right of the Indian Constituent Assemblies to decide in due course whether or not the part of India in respect of which they have authority will remain within the British Commonwealth.

## FURTHER ANNOUNCEMENTS BY GOVERNOR-GENERAL

21. His Excellency the Governor-General will from time to time make such further announcements as may be necessary in regard to procedure or any other matters for carrying out the above arrangements.

## APPENDIX

The Muslim majority districts of Punjab and Bengal according to 1941 census.

1. *The Punjab :*

Lahore Division : Gujranwala, Gurdaspur, Lahore, Sheikhupura, Sialkot.

Rawalpindi Division : Attock, Gujrat, Jhelum, Mianwali, Rawalpindi, Shahpur.

Multan Division : Dera Ghazikhan, Jhang, Lyallpur, Montgomery, Multan, Muzaffargarh.

2. *Bengal :*

Chittagong Division : Chittagong, Noakhali, Tippera.

Presidency Division : Jessore, Murshidabad, Nadia.

Dacca Division : Bakerganj, Dacca, Faridpur, Mymensingh.

Rajshahi Division : Bogra, Dinajpur, Malda, Pabna, Rajshahi, Rangpur.

## (II) NEHRU'S BROADCAST

June 3, 1947

Nearly nine months ago, soon after my assumption of office, I spoke to you from this place. I told you then that we were on the march and the goal had still to be reached. There were many difficulties and obstacles on the way and our journey's end might not be near, for that end was not the assumption of office in the Government of India but the achievement of the full independence of India and the establishment of a co-operative commonwealth in which all will be equal sharers in opportunity and in all things that give meaning and value to life.

Nine months have passed, months of sore trial and difficulty, of anxiety and sometimes even of heartbreak. Yet looking back at this period with its suffering and sorrow for our people there is much on the credit side also, for India has advanced nationally and internationally, and is respected today in the councils of the world.

In the domestic sphere something substantial has been achieved though the burden on the common man still continues to be terribly heavy and millions lack food and cloth and other necessities of life. Many vast schemes of development are nearly ready and yet it is true that most of our dreams about the brave things we are going to accomplish have still to be realized.

You know well the difficulties which the country had to face, economic, political and communal. These months have been full of tragedy for millions and the burden on those who have the governance of the country in their hands has been great indeed. My mind is heavy with the thought of the sufferings of our people in the areas of disturbance—the thousands who are dead and those, especially our womenfolk, who have suffered agony worse than death. To their families and to the innumerable people who have been uprooted from their homes and rendered destitute I offer my deepest sympathy and assurance that we shall do all in our power to bring relief. We must see to it that such tragedies do not happen again.

At no time have we lost faith in the great destiny of India which takes shape even though with travail and suffering. My great regret has been that during this period, owing to excess of work, I have been unable to visit the numerous towns and villages of India, as I used to do, to meet my people and to learn about their troubles at first-hand.

Today I am speaking to you on another historic occasion when a vital change affecting the future of India is proposed. You have just heard an announcement on behalf of the British Government. This announcement lays down a procedure for self-determination in certain areas of India. It envisages on the one hand the possibility of these areas seceding from India; on the other, it promises a big advance towards complete independence. Such a big change must have the full concurrence of the people before effect

can be given to it, for it must always be remembered that the future of India can only be decided by the people of India, and not by any outside authority, however friendly.

These proposals will be placed soon before the representative assemblies of the people for consideration. But meanwhile, the sands of time run out and decisions cannot await the normal course of events. So while we must necessarily abide by what the people finally decide we had to come to certain decisions ourselves and to recommend them to the people for acceptance. We have, therefore, decided to accept these proposals and to recommend to our larger committees that they do likewise. It is with no joy in my heart that I commend these proposals to you, though I have no doubt in my mind that this is the right course. For generations we have dreamt and struggled for a free, independent and united India. The proposal to allow certain parts to secede if they so will is painful for any of us to contemplate. Nevertheless I am convinced that our present decision is the right one even from the larger viewpoint. The united India that we have laboured for was not one of compulsion and coercion but a free and willing association of a free people. It may be that in this way we shall reach that united India sooner than otherwise and then she will have a stronger and more secure foundation.

We are little men serving a great cause, but because the cause is great something of that greatness falls upon us also. Mighty forces are at work in the world today and in India, and I have no doubt that we are ushering in a period of greatness for India. The India of geography, of history and tradition, the India of our minds and hearts, cannot change.

On this historic occasion each one of us must pray that he might be guided right in the service of the Motherland and humanity at large. We stand on a watershed dividing the past from the future. Let us bury that past in so far as it is bad and forget all bitterness and recriminations; let there be moderation in speech and in writing; let there be strength and perseverance in adhering to the cause and the ideals we have at heart. Let us face the future not with easy optimism or any complacency or weakness but with confidence and firm faith in India.

There has been violence, shameful, degrading and revolting violence, in various parts of the country. This must end. We are determined to end it. We must make it clear that political ends are not to be achieved by methods of violence, now or in the future.

On this eve of great changes in India we have to make a fresh start with clear vision and firm mind, with steadfastness and tolerance and with a stout heart. We should not wish ill to anyone but think always of every Indian as our brother and comrade. The good of the four hundred millions of Indians must be our supreme objective. We shall seek to build anew our relations with England on a friendly and co-operative basis forgetting the past which has lain so heavily on us.



I should like to express on this occasion my deep appreciation of the labours of the Viceroy, Lord Mountbatten, since his arrival here at a critical juncture in our history.

Inevitably, on every occasion of crisis and difficulties we think of our great leader Mahatma Gandhi who has led us unfalteringly for over a generation through darkness and sorrow to the threshold of our freedom. To him we once again pay our homage. His blessings and wise counsel will happily be with us in the momentous years to come as always.

With a firm faith in our future I appeal to you to co-operate in the great task ahead and to march together to the haven of freedom for all in India.

*Jai Hind.*

### (III) CONGRESS RESOLUTION

June 15, 1947

The A. I. C. C. has given careful consideration to the course of events since its last meeting in January last and, in particular, to the statements made on behalf of the British Government on February 20, 1947, and June 3, 1947. The committee approves and endorses the resolutions passed by the Working Committee during this period.

The committee welcomes the decision of the British Government to transfer power completely to the Indian people by the next August.

The Congress accepted the British Cabinet Mission's statement of May 16, 1946, as well as the subsequent interpretation thereof dated December 6, 1946, and has been acting in accordance with it in the Constituent Assembly which was constituted in terms of the Cabinet Mission's Plan.

That Assembly has been functioning for over six months and has not only declared its objectives to be the establishment of an Independent Sovereign Republic of India and a just social and economic order, but has also made considerable progress in framing the constitution for the free Indian Union on the basis of fundamental rights, guaranteeing freedom and equality of opportunity to all Indians.

In view, however, of the refusal of the Muslim League to accept the plan of May 16 and to participate in the Constituent Assembly, and further in view of the policy of the Congress that it cannot think in terms of compelling the people in any territorial unit to remain in an Indian Union against their declared and established will, the A.I.C.C. accepts the proposals embodied in the announcement of June 3 which have laid down a procedure for ascertaining the will of the people concerned.

The Congress has consistently upheld that the unity of India must be maintained. Ever since its inception, more than 60 years ago, the National Congress has laboured for the realization of a free and united India, and millions of our people have suffered in this great cause. Not only the labours and

sacrifices of the past two generations but the long course of India's history and tradition bear witness to this essential unity. Geography and the mountains and the seas fashioned India as she is and no human agency can change that shape or come in the way of her final destiny. Economic circumstances and the insistent demands of international affairs make the unity of India still more necessary.

The picture of India we have learnt to cherish will remain in our minds and hearts. The A.I.C.C. earnestly trusts that when present passions have subsided, India's problems will be viewed in their proper perspective and the false doctrine of two nations in India will be discredited and discarded by all.

The proposals of June 3 are likely to lead to the secession of some parts of the country from India. However much this may be regretted, the A.I.C.C. accepts this possibility in the circumstances now prevailing.

Though freedom is at hand, the times are difficult, and the situation in India demands vigilance and a united front of all those who care for the independence of India. At this time of crisis and change, when unpatriotic and anti-social forces are trying to injure the cause of India and her people, the A.I.C.C. appeals to and demands of every Congressman and the people generally, to forget their petty differences and disputes and to stand by vigilant, disciplined and prepared to serve the cause of India's freedom and defend it with all their strength from all who may seek to do it injury.

## INDIAN INDEPENDENCE ACT, 1947

*[According to 'the June 3rd Plan' votes were taken in the Punjab, Bengal and Sind Legislative Assemblies. Bengal decided by 126 votes to 90 in favour of joining the new Constituent Assembly. The non-Muslim majority areas decided by 58 votes to 21 that the province be partitioned and West Bengal should join the existing Constituent Assembly. The Punjab Legislative Assembly decided by 91 votes to 77 to join the new Constituent Assembly. The non-Muslim majority areas by a majority of 50 to 22 votes decided in favour of partition and for joining the existing Constituent Assembly. Sind decided by thirty votes to twenty in favour of joining the new Constituent Assembly. A referendum held in North-West Frontier Province resulted in the decision to join Pakistan, 2,89,244 votes having been cast in favour of Pakistan while only 2,874 in that of India. Sylhet also decided to join Pakistan, 2,39,619 votes having been cast in favour of joining East Bengal and 1,84,041 in that of continuing in Assam. In Baluchistan the decision to join Pakistan was taken unanimously at a meeting of the members of Shahi Jirga and non-official members of the Quetta Municipality, the Hindu and the Parsee members absenting themselves from the meeting. In order to give effect to 'the June 3rd Plan' the British Parliament introduced a Bill known as the Indian Independence Bill in the House of Commons on July, 4, 1947. It was finally enacted on July 18. The Act constituted two independent Dominions of India and Pakistan with effect from August 15. Further the Act conferred full power on the Constituent Assembly of each Dominion to frame and adopt any constitution and to supersede the Indian Independence Act without any further legislation on the part of the British Parliament. The relevant extracts from the speech of the Secretary of State in the House of Lords and the text of the Act are reproduced below.]*

(I) SECRETARY OF STATE'S SPEECH IN THE HOUSE OF  
LORDS ON THE INDIAN INDEPENDENCE BILL

July 16, 1947

MY LORDS, I have it in command to acquaint the House that His Majesty, having been informed of the contents of this Bill, is prepared to place his

prerogatives and interests, so far as concerns the matters dealt with by the Bill, at the disposal of Parliament. I beg to move the Second Reading of this Bill, the Indian Independence Bill. His Majesty's Government have asked Parliament to assure for this great measure a passage so rapid as to be almost unprecedented. It may be that to some of your Lordships it will appear that we are dealing with this Bill, with its vast and unforeseeable consequences, with a degree of haste that is almost unseemly. But this rapid passage is desirable for the following reason. Once a decision in principle has been taken to partition India, the difficulties of carrying on the government of the country by a Cabinet which is still unitary in form, but which is in fact divided by sharp differences of view, are naturally becoming increasingly acute. The sooner, therefore, that the two new Governments can start on their separate tasks the greater the advantages to them both.

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This is a short Bill, for it is mainly an enabling Bill, but it holds the fulfilment of a great purpose. The establishment of self-government has long been the aim of British rule in India and the goal is now within sight. The Bill which I am submitting for the approval of the House will mark the emergence of the two new Asian Dominions as free and equal partners in the British Commonwealth, and the deliberate conclusion of our long Parliamentary responsibility for the welfare of the Indian peoples and the good government of India... It is a matter of great regret that British India will reach maturity as two nations instead of one, and that the unity from which so many blessings have sprung in times past will soon be broken. But the dilemma with which we were faced made self-government impossible without partition.

When it became clear that the Cabinet Mission Plan for an Indian Union would never be accepted, and that there was no alternative form of common government to which Hindus and Moslems would consent, we had either to agree to implement their separation, or to remain indefinitely in control of India, until such time as the two communities had composed their differences and decided to live together. The deadlock between the parties has, as all will recollect who have attended previous debates in your Lordships' House, always been a formidable obstacle in the path of constitutional advance. It is surely better that India should be divided by mutual consent, than that she should remain united against her will, and be thrown ultimately into the convulsions of civil strife, as the only possible means of securing the form of government her people desire. It is greatly to be hoped that, when the disadvantages of separation have become apparent in the light of experience, the two Dominions will freely decide to reunite in a single Indian Dominion, which might achieve that position among the nations of the world to which its territories and resources would entitle.

There is one circumstance that will mitigate considerably, and may counterbalance, the disadvantages of partition. Both Dominions will start their career of full independence as partners in the British family of nations, and will each share with the other members of the Commonwealth the advantages added by this intimate relationship to equal and independent nationhood. Partition will leave the two nations which emerge from British India not foreign countries in relation to each other, but members of a group of like-minded nations that mark their affinity by common citizenship under a common Crown. Their membership of the Commonwealth will impose a moral obligation to remain at peace, to support one another and to cooperate in all matters of external policy and defence, and to organize their trade and production in a complementary instead of a conflicting pattern.

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Let me now turn to the provisions of the Bill. Clause 1 sets up the two Independent Dominions of India and Pakistan with effect from August 15. The word 'independent' emphasizes the absence of any external restraint. Independence in this sense is a universal attribute of Dominion Status, a fact that is often misunderstood by the outside world. It is also in accordance with the famous definition of the British Empire in the Report of the Imperial Conference of 1926: "They (the self-governing members of the Commonwealth) are autonomous communities, equal in status, and in no way subordinate one to another in any aspect of their domestic or external affairs".

Clause 2 defines the territories of the two new Dominions and makes possible the adjustment of existing boundaries, and the accession of other territories by mutual consent. Clauses 3 and 4 provide for the partition of Bengal, the Punjab and Assam, after the procedure laid down to elicit the wishes of their inhabitants has been carried out, and also for the fixing of the final boundaries of these Provinces by the awards of boundary commissions appointed for that purpose.

Clause 5 prescribes the appointment of a Governor-General for each Dominion by the King, unless the same person remains the Governor-General of both. The assumption made by this clause is that the King will act on the advice of His Ministers in the Dominion concerned, who will recommend the name of the Governor-General for the Dominion they represent. Your Lordships are aware that on the advice of the Indian leaders Mr. Jinnah and Lord Mountbatten have been recommended for appointment as Governors-General in Pakistan and India respectively, and that His Majesty has let it be known that he will make these appointments in due course.

Clause 6 gives each Dominion Legislature complete authority to legislate for the Dominion, including laws having extra-territorial operation. Henceforward the legislative power of the new Dominion Parliaments will be just as comprehensive as that possessed by our own, or by any Dominion Parliament under the Statute of Westminster.

Clause 7, sub-section (2), records the assent of this Parliament to the omission from the Royal Style and Titles of the words '*Indiæ Imperator*' and 'Emperor of India' a necessary corollary of the new constitutional relationship. The alteration of the Royal Title requires the assent of Dominion Parliaments as well as that of the Parliament of the United Kingdom. The Governments of the Dominions have been consulted and have agreed to take the necessary steps to obtain the assent as soon as possible.

Clause 7, sub-section (1) and the proviso to the clause deal with relations with the Indian States. Your Lordships will remember that the Cabinet Mission in their Memorandum of May 12, 1946, informed the States that His Majesty's Government would in no circumstances transfer paramountcy to an Indian Government. To that pledge we firmly adhere. But the time is fast approaching when the transfer of power to two Dominion Governments will make it quite impossible for us to carry out our obligations towards the States, which depend for their fulfilment on the continuing responsibility of Great Britain for the Government of India. If we cannot in future discharge our obligations, we must clearly release them also from their engagements. We are, therefore, proposing that from the date when the new Dominions are set up the treaties and agreements which gave us suzerainty over the States will become void.

From that moment the appointments and functions of the Crown Representative and his officers will terminate and the States will be the masters of their own fate. They will then be entirely free to choose whether to associate with one or other of the Dominion Governments or to stand alone and His Majesty's Government will not use the slightest pressure to influence their momentous and voluntary decision. But I think it can hardly be doubted that it would be in the best interests of their own people, and of India as a whole, that in the fullness of time all the States should find their appropriate place within one or the other of the new Dominions. It would be a tragedy for India if the States were not to enrich the Motherland to which they belong with the martial valour for which they are renowned, and which they have displayed so gallantly in two world wars, with the tradition of service that animates their rule, and with the advanced social institutions that some of them possess.

Whatever the future relationship between the new Dominions and the States may be, it will require prolonged consideration and discussion before the final adjustment can be made. We, therefore, welcome the setting up by the Interim Governments of States Departments, to handle negotiations with the Governments of the States. But the success of this negotiating machinery presupposes genuine goodwill and absence of suspicion on both sides. The assurance given by Sardar Patel, the Home Member, that it is not the desire of Congress to meddle in the domestic affairs of the States, is a welcome indication that Congress will not use its political strength to exert unfair pressure on their rulers. Sardar Patel's statement that the

federal subjects on which the States are invited to accede are limited to defence, foreign affairs and communications, and the moderation and reasonableness of his whole approach are another sign that the Dominion of India will scrupulously respect the autonomy of the States. Mr. Jinnah has also stated most emphatically that the Government of Pakistan will endorse the free choice of the States.

But apart from the political relationship between the States and British India, there have grown up a vast number of economic and financial agreements about matters of common concern—posts and telegraphs, customs, transit, railways—and it would be disastrous to India if these arrangements were suddenly terminated on the transfer of power. The proviso, therefore, in Clause 7 maintains the *status quo* in such matters as a temporary measure, and for so long as it is desired by the parties, or until replaced by fresh long-term agreements between the States and the Dominion Governments.

His Majesty's Government recognize that on August 15 the negotiations between the States and the representatives of the successor Governments may not be concluded, and that the subjects of Indian States who may on that date be abroad, under the protection of passports issued to them as British protected persons, may require some reassurance. We do not, of course, contemplate that that form of protection will cease. As has been said in another place, existing passports will continue until the date at which they will expire in the normal course. What will happen about the issue of new passports is one of the matters which we hope will be solved in the negotiations, due to begin in Delhi next week, between the future Dominion authorities and the States. We hope that, pending the final decision as to the States' accession to one or other Dominion, the respective Dominions will assume some of the duties of protection hitherto borne by the United Kingdom. It would, of course, be possible for His Majesty's Government to contribute in some measure, by *agreement*, to easing the transition, were they to continue on behalf of any State whose position remains undecided some of the protective functions abroad which they have hitherto discharged. We do not, of course, propose to recognize any States as separate international entities. Paragraph (c) of sub-section (1) of this clause applies the same principle to the common economic interests between the Dominions and the tribal authorities, without prejudice to re-negotiation of the existing political agreements of the tribes with the appropriate successor authority.

Clause 8 confers on the two Constituent Assemblies—the existing Assembly in the case of the new India, and the Assembly of Pakistan when it is convened—the full Legislative power which by Clause 6(1) is vested in the Legislature of each Dominion. This power is conferred in that context for the purpose of framing the final constitution of the new Dominion. While that constitution-making process is proceeding, it is obviously essential for the government and administration of the two Dominions to be carried on. In order to meet this requirement, sub-section (2) of Clause 8

prescribes that the Government of each Dominion will be carried on as closely as possible in accordance with the provisions of the Act of 1935, subject to certain important qualifications contained in the provisos. These qualifications make it clear that those features of the present system that would be inconsistent with Dominion Status—namely, control by the United Kingdom Government and the means through which it has been exercised under the Act of 1935—do not remain in force. They also sweep away the present Central Legislature for the whole of India.

Sub-section (3) fills the gap which would otherwise be created in the structure of the 1935 Act, by conferring temporarily on the Constituent Assembly in each Dominion the legislative powers previously exercised by the Central Legislature. Thus, the Constituent Assemblies are given a dual role; the making of a constitution, for which purpose they have complete power to do anything, and the temporary function of acting as a Central Legislature for each Dominion in the exercise of the limited powers in the central field which were given to the Federal Legislature by the Act of 1935. There will, of course, have to be extensive adaptation of the Act of 1935 to fit the new circumstances. This is to be done by Order made by the Governor-General under Clause 9 of the Bill.

Clause 9 gives the Governor-General wide but temporary powers to make orders for effecting partition at the Centre and in the Provinces and for administering the common services and other Central functions pending their division between the two Dominions. It confers similar powers for the purpose of partitioning in the Punjab, Bengal and Assam on the Governors of those Provinces. It is obviously essential that there should be means of giving rapid effect to the agreements or arbitral awards relating to the division of the army, the sterling balances, the public debt, and other property or services at present handled or directed by the Government of India.

These powers are not absolute—the powers I am describing in Clause 9—and their duration is limited by the terms of the Bill. In the case of the Governors, the powers in this clause will expire on August 15, while the Governors-General cannot use them after March 31, 1948. They are also limited by the right of either Dominion Legislature to repeal or amend any Order, and to deprive the Governor-General of the Order-making power itself by passing a law to that effect.

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After August 15 Orders affecting both Dominions can only be made by the two Governors-General acting jointly. Noble Lords will observe that sub-section (3) will give Orders of the Governor-General retrospective effect to June 3. The business of partition, being a matter of the utmost urgency, has already begun, and this provision will enable any actions necessitated by these preliminaries, and not in strict accordance with the 1935 Act, to be



validated. Emergency powers are clearly needed to meet what is in fact an unprecedented situation. Even the prescience of the 1935 Act did not anticipate the partition of India, and we have therefore had to improvise machinery that can be used immediately, and for the purpose of a smooth and orderly transition to the firm establishment of two separate Dominion Governments.

Clause 10 deals with the future of the Services. Sub-section (2) of this clause has been included at the express request of the present Interim Government of India. It guarantees that Judges and members of the Secretary of State's Services, European and Indian alike, who continue to serve the Governments of the new Dominions, will enjoy their existing terms of service as regards pay, leave and pension. This fulfils the undertaking given by the leaders of both Parties. The Indian leaders have also promised continuance of their present terms of service to the many civil servants and employees of the Central or Provincial Governments who were not appointed by the Secretary of State, subject, of course, to the right of any Government to revise, in the light of events, the salaries paid to their servants.

His Majesty's Government recognize a special responsibility to European members of the Secretary of State's and analogous Services and we intend to ask the new Governments when established to negotiate an agreement to set aside a capital sum in sterling to cover their pension rights. We have also given a public assurance to those concerned that these pensions will, in fact, be paid.

It is the intention of His Majesty's Government to endeavour to secure the inclusion in the agreements which it is proposed to negotiate with the two Dominion Governments of formal undertakings in respect of European officers of the Central and Provincial Services who were not appointed by the Secretary of State.

Clauses 11 to 13 give effect to policy relating to the Armed Forces in India. Your Lordships will remember that the Partition Council, a body consisting of two leaders each from Congress and the Moslem League, with the Viceroy in the Chair, has decided to divide the Indian Army, Navy and Air Force between the two Indian Dominions. The first stage of this division, a rough and ready separation of units on communal lines, will give each Dominion operational control of its own Armed Forces by August 15. The second stage, which will allow each officer and man the choice of which Dominion he intends to serve, will, it is hoped, be completed by April 1, 1948. While the intricate process of sorting out is taking place, and until the two Dominion Governments are able to administer their own forces, all the existing Armed Forces in India will remain under the administrative control of the present Commander-in-Chief, who will be termed the Supreme Commander. He will be responsible to a Joint Defence Council, consisting of himself, the two Defence Ministers, and Lord Mountbatten as Chairman. His function in relation to the Indian forces will be purely

administrative, and all operational responsibilities, such as the maintenance of law and order, and external defence, will be discharged by officers subordinate to the Dominion Governments.

Control of the British Army and the Royal Air Force will pass to a chain of command leading from a British G.O.C. and A.O.C. to the Supreme Commander, and from him to the Chiefs of Staff in London. These British Forces will, naturally, lose their operational role, and, while they remain in Indian territory, will assume the position of visiting British Forces in a Dominion. They will start to be withdrawn from India on August 15, and this withdrawal will be carried out as rapidly as shipping permits, and is expected to be completed by about the end of this year. Your Lordships will observe that sub-section (1) of Clause 11 says that the Indian Armed Forces are to be divided by orders made by the Governor-General. Clause 12 sub-section (1) makes it clear that British Forces in India will be controlled, from August 15, by the U.K. Government, so that they will occupy the position appropriate to the new constitutional relationship directly the new Dominions have been set up.

I should like to direct your Lordships' attention, in passing, to one other feature of the Bill : the provision in Clause 16, which safeguards the future of Aden by removing authority for its administration from the 1935 Act, where it at present lies, to the British Settlements Acts.

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My Lords, that a vast population of non-European origin is about to achieve the independent status of the old Dominions shows that the Commonwealth, with its flexible and dynamic structure which responds so readily to the pressure of events, can still succeed in combining the contrary ideals of freedom and unity in international relations. This achievement is all the more remarkable in the case of peoples who differ from ourselves in race, in language, and in history, and may be the opening of a new chapter in the growth of freedom under British rule. For what we are now doing is to carry a step further the progressive enlargement of the Commonwealth within the Empire and the steady replacement of the responsibility of trusteeship by the no less weighty responsibility of partnership.

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It will surely transform the Commonwealth into an even more impressive and useful example of international co-operation than it has been hitherto, as a group of countries sprung from Europe and with their roots in the West. For our association of nations will now comprise a union between the ancient culture and civilization of Asia, and the scientific and practical genius of peoples of European origin and descent. The friendly collaboration that this will entail will bring lasting benefit to future relations between the most densely populated of the five continents, where powerful forces of

change are vigorously at work, and those parts of the world in which industrial and military power are mainly concentrated. I need not enlarge upon the potentialities of this new association between East and West, as a stabilizing influence, and as a means of maintaining the delicate and often precarious equilibrium that is indispensable for peaceful progress.

The statesmanship revealed by the Indian leaders in arriving at an agreed settlement about the future of India, and the wise tolerance of their attitude to religious and social minorities, are a good omen for the successful discharge of the immense political responsibilities and the complex administrative tasks that will soon be entirely theirs. I know that their fellow citizens throughout the Commonwealth will wish them success in their great venture, and that we can assure them that each of their sister nations will do its utmost to give them any help they may require.

## (II) INDIAN INDEPENDENCE ACT, 1947

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. *The new Dominions*: (1) As from the fifteenth day of August, nineteen hundred and forty-seven, two independent Dominions shall be set up in India, to be known respectively as India and Pakistan.

(2) The said Dominions are hereafter in this Act referred to as "the new Dominions", and the said fifteenth day of August is hereafter in this Act referred to as "the appointed day".

2. *Territories of the new Dominions*: (1) Subject to the provisions of sub-sections (3) and (4) of this section, the territories of India shall be the territories under the sovereignty of His Majesty which, immediately before the appointed day, were included in British India except the territories which, under sub-section (2) of this section, are to be the territories of Pakistan.

(2) Subject to the provisions of sub-sections (3) and (4) of this section the territories of Pakistan shall be—

(a) the territories which, on the appointed day, are included in the Provinces of East Bengal and West Punjab, as constituted under the two following sections;

(b) the territories which, at the date of the passing of this Act, are included in the Province of Sind and the Chief Commissioner's Province of British Baluchistan; and

(c) if, whether before or after the passing of this Act but before the appointed day, the Governor-General declares that the majority of the valid votes cast in the referendum which, at the date of the passing of this Act, is being or has recently been held in that behalf

under his authority in the North-West Frontier Province are in favour of representatives of that Province taking part in the Constituent Assembly of Pakistan, the territories which, at the date of the passing of this Act, are included in that Province.

(3) Nothing in this section shall prevent any area being at any time included in or excluded from either of the new Dominions, so, however, that—

(a) no area not forming part of the territories specified in sub-section (1) or, as the case may be, sub-section (2), of this section shall be included in either Dominion without the consent of that Dominion; and

(b) no area which forms part of the territories specified in the said sub-section (1) or, as the case may be, the said sub-section (2), or which has after the appointed day been included in either Dominion shall be excluded from that Dominion without the consent of that Dominion.

(4) Without prejudice to the generality of the provisions of sub-section (3) of this section, nothing in this section shall be construed as preventing the accession of Indian States to either of the new Dominions.

3. *Bengal and Assam* : (1) As from the appointed day—

(a) the Province of Bengal, as constituted under the Government of India Act, 1935, shall cease to exist; and

(b) there shall be constituted in lieu thereof two new Provinces, to be known respectively as East Bengal and West Bengal.

(2) If, whether before or after the passing of this Act, but before the appointed day, the Governor-General declares that the majority of the valid votes cast in the referendum which, at the date of the passing of this Act, is being or has recently been held in that behalf under his authority in the District of Sylhet are in favour of that District forming part of the new Province of East Bengal, then, as from that day, a part of the Province of Assam shall, in accordance with the provisions of sub-section (3) of this section, form part of the new Province of East Bengal.

(3) The boundaries of the new Provinces aforesaid and, in the event mentioned in sub-section (2) of this section, the boundaries after the appointed day of the Province of Assam, shall be such as may be determined, whether before or after the appointed day, by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined—

(a) the Bengal Districts specified in the First Schedule to this Act, together with, in the event mentioned in sub-section (2) of this section, the Assam District of Sylhet, shall be treated as the territories which are to be comprised in the new Province of East Bengal;

(b) the remainder of the territories comprised at the date of the passing of this Act in the Province of Bengal shall be treated as the territories

which are to be comprised in the new Province of West Bengal; and

(c) in the event mentioned in sub-section (2) of this section, the district of Sylhet shall be excluded from the Province of Assam.

(4) In this section, the expression "award" means, in relation to a boundary commission, the decision of the Chairman of that commission contained in his report to the Governor-General at the conclusion of the commission's proceedings.

4. *The Punjab* : (1) As from the appointed day—

(a) the Province of the Punjab, as constituted under the Government of India Act, 1935, shall cease to exist; and

(b) there shall be constituted two new Provinces, to be known respectively as West Punjab and East Punjab.

(2) The boundaries of the said new Provinces shall be such as may be determined, whether before or after the appointed day by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined—

(a) the Districts specified in the Second Schedule to this Act shall be treated as the territories to be comprised in the new Province of West Punjab; and

(b) the remainder of the territories comprised at the date of the passing of this Act in the Province of the Punjab shall be treated as the territories which are to be comprised in the new Province of East Punjab.

(3) In this section, the expression "award" means, in relation to a boundary commission, the decision of the Chairman of that commission contained in his report to the Governor-General at the conclusion of the commission's proceedings.

5. *The Governor-General of the new Dominions* : For each of the new Dominions, there shall be a Governor-General who shall be appointed by His Majesty and shall represent His Majesty for the purposes of the government of the Dominion :

Provided that, unless and until provision to the contrary is made by a law of the Legislature of either of the new Dominions, the same person may be Governor-General of both the new Dominions.

6. *Legislation for the new Dominions*: (1) The Legislature of each of the new Dominions shall have full power to make laws for that Dominion, including laws having extra-territorial operation.

(2) No law and no provision of any law made by the Legislature of either of the new Dominions shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of this or any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Legislature of each Dominion include the power to repeal or amend any such

Act, Order, rule or regulation in so far as it is part of the law of the Dominion.

(3) The Governor-General of each of the new Dominions shall have full power to assent in His Majesty's name to any law of the Legislature of that Dominion and so much of any Act as relates to the disallowance of laws by His Majesty or the reservation of laws for the signification of His Majesty's pleasure thereon or the suspension of the operation of laws until the signification of His Majesty's pleasure thereon shall not apply to laws of the Legislature of either of the new Dominions.

(4) No Act of Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to either of the new Dominions as part of the law of that Dominion unless it is extended thereto by a law of the Legislature of the Dominion.

(5) No Order in Council made on or after the appointed day under any Act passed before the appointed day, and no order, rule or other instrument made on or after the appointed day under any such Act by any United Kingdom Minister or other authority, shall extend, or be deemed to extend, to either of the new Dominions as part of the law of that Dominion.

(6) The power referred to in sub-section (1) of this section extends to the making of laws limiting for the future the powers of the Legislature of the Dominion.

7. *Consequences of the setting up of the new Dominions:* (1) As from the appointed day—

(a) His Majesty's Government in the United Kingdom have no responsibility as respects the government of any of the territories which, immediately before that day, were included in British India;

(b) the suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that date towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise; and

(c) there lapse also any treaties or agreements in force at the date of the passing of this Act between His Majesty and any persons having authority in the tribal areas, any obligations of his Majesty existing at that date to any such persons or with respect to the tribal areas, and all powers, rights, authority or jurisdiction exercisable at that date by His Majesty in or in relation to the tribal areas by treaty, grant, usage, sufferance or otherwise:

Provided that, notwithstanding anything in paragraph (b) or paragraph (c) of this sub-section, effect shall, as nearly as may be, continue to be

given to the provisions of any such agreement as is therein referred to which relate to customs, transit and communications, posts and telegraphs, or other like matters, until the provisions in question are denounced by the ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part thereof concerned on the other hand, or are superseded by subsequent agreements.

(2) The assent of the Parliament of the United Kingdom is hereby given to the omission from the Royal Style and Titles of the words "Indiæ Imperator" and the words "Emperor of India" and to the issue by His Majesty for that purpose of His Royal Proclamation under the Great Seal of the Realm.

8. *Temporary provision as to government of each of the new Dominions* : (1) In the case of each of the new Dominions, the powers of the Legislature of the Dominion shall, for the purpose of making provision as to the constitution of the Dominion, be exercisable in the first instance by the Constituent Assembly of that Dominion, and references in this Act to the Legislature of the Dominion shall be construed accordingly.

(2) Except in so far as other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion under sub-section (1) of this section, each of the new Dominions and all Provinces and other parts thereof shall be governed as nearly as may be in accordance with the Government of India Act, 1935; and the provisions of that Act, and of the Orders in Council, rules and other instruments made thereunder, shall, so far as applicable, and subject to any express provisions of this Act, and with such omissions, additions, adaptations and modifications as may be specified in orders of the Governor-General under the next succeeding section, have effect accordingly :

Provided that—

- (a) the said provisions shall apply separately in relation to each of the new Dominions and nothing in this sub-section shall be construed as continuing on or after the appointed day any Central Government or Legislature common to both the new Dominions;
- (b) nothing in this sub-section shall be construed as continuing in force on or after the appointed day any form of control by His Majesty's Government in the United Kingdom over the affairs of the new Dominions or of any Province or other part thereof;
- (c) so much of the said provisions as requires the Governor-General or any Governor to act in his discretion or exercise his individual judgment as respects any matter shall cease to have effect as from the appointed day ;
- (d) as from the appointed day, no Provincial Bill shall be reserved under the Government of India Act, 1935, for the signification of His Majesty's pleasure, and no Provincial Act shall be disallowed by His Majesty thereunder; and

(e) the powers of the Federal Legislature or Indian Legislature under that Act, as in force in relation to each Dominion, shall, in the first instance, be exercisable by the Constituent Assembly of the Dominion, in addition to the powers exercisable by that Assembly under sub-section (1) of this section.

(3) Any provision of the Government of India Act, 1935, which, as applied to either of the new Dominions by sub-section (2) of this section and the orders therein referred to, operates to limit the power of the legislature of that Dominion shall, unless and until other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion in accordance with the provisions of sub-section (1) of this section, have the like effect as a law of the Legislature of the Dominion limiting for the future the powers of that Legislature.

9. *Orders for bringing this Act into force:* (1) The Governor-General shall by order make such provision as appears to him to be necessary or expedient—

- (a) for bringing the provisions of this Act into effective operation;
- (b) for dividing between the new Dominions, and between the new Provinces, to be constituted under this Act, the powers, rights, property, duties and liabilities of the Governor-General in Council or, as the case may be, of the relevant Provinces which, under this Act, are to cease to exist;
- (c) for making omissions from, additions to, and adaptations and modifications of, the Government of India Act, 1935, and the Orders in Council, rules and other instruments made thereunder, in their application to the separate new Dominions;
- (d) for removing difficulties arising in connection with the transition to the provisions of this Act;
- (e) for authorizing the carrying on of the business of the Governor-General in Council between the passing of this Act and the appointed day otherwise than in accordance with the provisions in that behalf of the Ninth Schedule to the Government of India Act, 1935;
- (f) for enabling agreements to be entered into, and other acts done on behalf of either of the new Dominions before the appointed day;
- (g) for authorizing the continued carrying on for the time being on behalf of the new Dominions, or on behalf of any two or more of the said new Provinces, of services and activities previously carried on on behalf of British India as a whole or on behalf of the former Provinces which those new Provinces represent;
- (h) for regulating the monetary system and any matters pertaining to the Reserve Bank of India; and
- (i) so far as it appears necessary or expedient in connection with any of the matters aforesaid, for varying the constitution, powers or



jurisdiction of any legislature, court or other authority in the new Dominions and creating new legislatures, courts or other authorities therein.

(2) The powers conferred by this section on the Governor-General shall, in relation to their respective Provinces, be exercisable also by the Governors of the Provinces which, under this Act, are to cease to exist; and those powers shall, for the purposes of the Government of India Act, 1935, be deemed to be matters as respects which the Governors are, under that Act, to exercise their individual judgment.

(3) This section shall be deemed to have had effect as from the third day of June, nineteen hundred and forty-seven and any order of the Governor-General or any Governor made on or after that date as to any matter shall have effect accordingly, and any order made under this section may be made so as to be retrospective to any date not earlier than the said third day of June :

Provided that no person shall be deemed to be guilty of an offence by reason of so much of any such order as makes any provision thereof retrospective to any date before the making thereof.

(4) Any orders made under this section, whether before or after the appointed day, shall have effect—

(a) up to the appointed day, in British India ;

(b) on and after the appointed day, in the new Dominion or Dominions concerned; and

(c) outside British India, or as the case may be, outside the new Dominion or Dominions concerned, to such extent, whether before, on or after the appointed day, as a law of the Legislature of the Dominion or Dominions concerned would have on or after the appointed day,

but shall, in the case of each of the Dominions, be subject to the same powers of repeal and amendment as laws of the Legislature of that Dominion.

(5) No order shall be made under this section, by the Governor of any Province, after the appointed day, or, by the Governor-General, after the thirty-first day of March, nineteen hundred and forty-eight, or such earlier date as may be determined, in the case of either Dominion, by any law of the Legislature of that Dominion.

(6) If it appears that a part of the Province of Assam is, on the appointed day, to become part of the new Province of East Bengal, the preceding provisions of this section shall have effect as if, under this Act, the Province of Assam was to cease to exist on the appointed day and be reconstituted on that day as a new Province.

10. *Secretary of State's services, etc.* : (1) The provisions of this Act keeping in force provisions of the Government of India Act, 1935, shall not continue in force the provisions of that Act relating to appointments

to the civil services of, and civil posts under, the Crown in India by the Secretary of State, or the provisions of that Act relating to the reservation of posts.

(2) Every person who—

(a) having been appointed by the Secretary of State, or Secretary of State in Council, to a civil service of the Crown in India continues on and after the appointed day to serve under the Government of either of the new Dominions or of any Province or part thereof ;  
or

(b) having been appointed by His Majesty before the appointed day to be a Judge of the Federal Court or of any Court which is a High Court within the meaning of the Government of India Act, 1935, continues on and after the appointed day to serve as a judge in either of the new Dominions,

shall be entitled to receive from the Governments of the Dominions and Provinces or parts which he is from time to time serving or, as the case may be, which are served by the courts in which he is from time to time a judge, the same conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters or, as the case may be, as respects the tenure of his office, or rights as similar thereto as changed circumstances may permit, as that person was entitled to immediately before the appointed day.

(3) Nothing in this Act shall be construed as enabling the rights and liabilities of any person with respect to the family pension funds vested in Commissioners under section two hundred and seventy-three of the Government of India Act, 1935, to be governed otherwise than by Orders in Council made (whether before or after the passing of this Act or the appointed day) by His Majesty in Council and rules made (whether before or after the passing of this Act or the appointed day) by a Secretary of State or such other Minister of the Crown as may be designated in that behalf by Order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946.

11. *Indian armed forces* : (1) The orders to be made by the Governor-General under the preceding provisions of this Act shall make provision for the division of the Indian armed forces of His Majesty between the new Dominions, and for the command and governance of those forces until the division is completed.

(2) As from the appointed day, while any member of His Majesty's forces other than His Majesty's Indian forces, is attached to or serving with any of His Majesty's Indian forces—

(a) he shall, subject to any provision to the contrary made by a law of the Legislature of the Dominion or Dominions concerned or by any order of the Governor-General under the preceding provisions of this Act, have, in relation to the Indian forces in question, the

powers of command and punishment appropriate to his rank and functions; but

- (b) nothing in any enactment in force at the date of the passing of this Act shall render him subject in any way to the law governing the Indian forces in question.

12. *British forces in India* : (1) Nothing in this Act affects the jurisdiction or authority of His Majesty's Government in the United Kingdom, or of the Admiralty, the Army Council, or the Air Council or of any other United Kingdom authority, in relation to any of His Majesty's forces which may, on or after the appointed day, be in either of the new Dominions or elsewhere in the territories which, before the appointed day, were included in India, not being Indian forces.

(2) In its application in relation to His Majesty's military forces, other than Indian forces, the Army Act shall have effect on or after the appointed day—

- (a) as if His Majesty's Indian forces were not included in the expressions "the forces", "His Majesty's forces" and "the regular forces"; and

- (b) subject to the further modifications specified in Parts I and II of the Third Schedule to this Act.

(3) Subject to the provisions of sub-section (2) of this section, and to any provisions of any law of the Legislature of the Dominion concerned, all civil authorities in the new Dominions, and, subject as aforesaid and subject also to the provisions of the last preceding section, all service authorities in the new Dominions, shall, in those Dominions and in the other territories which were included in India before the appointed day, perform in relation to His Majesty's military forces, not being Indian forces, the same functions as were, before the appointed day, performed by them, or by the authorities corresponding to them, whether by virtue of the Army Act or otherwise, and the matters for which provision is to be made by orders of the Governor-General under the preceding provisions of this Act shall include the facilitating of the withdrawal from the new Dominions and other territories aforesaid of His Majesty's military forces, not being Indian forces.

(4) The provisions of sub-sections (2) and (3) of this section shall apply in relation to the air forces of His Majesty, not being Indian air forces, as they apply in relation to His Majesty's military forces, subject, however, to the necessary adaptations, and, in particular, as if—

- (a) for the references to the Army Act there were substituted references to the Air Force Act; and

- (b) for the reference to Part II of the Third Schedule to this Act there were substituted a reference to Part III of that Schedule.

13. *Naval Forces* : (1) In the application of the Naval Discipline Act to His Majesty's Naval Forces, other than Indian Naval Forces, references

to His Majesty's navy and His Majesty's ships shall not, as from the appointed day, include references to His Majesty's Indian navy or the ships thereof.

(2) In the application of the Naval Discipline Act by virtue of any law made in India before the appointed day to Indian naval forces, references to His Majesty's navy and His Majesty's ships shall, as from the appointed day, be deemed to be, and to be only, references to His Majesty's Indian navy and the ships thereof.

(3) In section 90B of the Naval Discipline Act (which, in certain cases, subjects officers and men of the Royal Navy and Royal Marines to the law and customs of the ships and naval forces of other parts of His Majesty's dominion) the words "or of India" shall be repealed as from the appointed day, wherever those words occur.

14. *Provisions as to the Secretary of State and the Auditor of Indian Home Accounts:* (1) A Secretary of State, or such other Minister of the Crown as may be designated in that behalf by Order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946, is hereby authorised to continue for the time being the performance, on behalf of whatever government or governments may be concerned, of functions as to the making of payments and other matters similar to the functions which, up to the appointed day, the Secretary of State was performing on behalf of governments constituted or continued under the Government of India Act, 1935.

(2) The functions referred to in sub-section (1) of this section include functions as respects the management of, and the making of payments in respect, of government debt, and any enactments relating to such debt shall have effect accordingly :

Provided that nothing in this sub-section shall be construed as continuing in force so much of any enactment as empowers the Secretary of State to contract sterling loans on behalf of any such Government as aforesaid or as applying to the Government of either of the new Dominions the prohibition imposed on the Governor-General in Council by section three hundred and fifteen of the Government of India Act, 1935, as respects the contracting of sterling loans.

(3) As from the appointed day, there shall not be any such advisers of the Secretary of State as are provided for by section two hundred and seventy-eight of the Government of India Act, 1935, and that section, and any provisions of that Act which require the Secretary of State to obtain the concurrence of his advisers, are hereby repealed as from that day.

(4) The Auditor of Indian Home Accounts is hereby authorised to continue for the time being to exercise his functions as respects the accounts of the Secretary of State or any such other Minister of the Crown as is mentioned in sub-section (1) of this section, both in respect of activities before, and in respect of activities after, the appointed day, in the same

manner, as nearly as may be as he would have done if this Act had not passed.

15. *Legal proceedings by and against the Secretary of State:* (1) Notwithstanding anything in this Act, and in particular, notwithstanding any of the provisions of the last preceding section, any provision of any enactment which, but for the passing of this Act, would authorise legal proceedings to be taken, in India or elsewhere by or against the Secretary of State in respect of any right or liability of India or any part of India shall cease to have effect on the appointed day, and any legal proceedings pending by virtue of any such provision on the appointed day shall, by virtue of this Act, abate on the appointed day, so far as the Secretary of State is concerned.

(2) Subject to the provisions of this sub-section, any legal proceedings which, but for the passing of this Act, could have been brought by or against the Secretary of State in respect of any right or liability of India, or any part of India, shall instead be brought—

(a) in the case of proceedings in the United Kingdom, by or against the High Commissioner ;

(b) in the case of other proceedings, by or against such person as may be designated by order of the Governor-General under the preceding provisions of this Act or otherwise by the law of the new Dominion concerned ;

and any legal proceedings by or against the Secretary of State in respect of any such right or liability as aforesaid which are pending immediately before the appointed day shall be continued by or against the High Commissioner or, as the case may be, the person designated as aforesaid :

Provided that, at any time after the appointed day, the right conferred by this sub-section to bring or continue proceedings may, whether the proceedings are by, or are against, the High Commissioner or person designated as aforesaid, be withdrawn by a law of the Legislature of either of the new Dominions so far as that Dominion is concerned, and any such law may operate as respects proceedings pending at the date of the passing of the law.

(3) In this section, the expression “the High Commissioner” means, in relation to each of the new Dominions, any such officer as may for the time being be authorised to perform in the United Kingdom, in relation to that Dominion, functions similar to those performed before the appointed day, in relation to the Governor-General in Council, by the High Commissioner referred to in section three hundred and two of the Government of India Act, 1935; and any legal proceedings which, immediately before the appointed day, are the subject of an appeal to His Majesty in Council, or of a petition for special leave to appeal to His Majesty in Council, shall be treated for the purposes of this section as legal proceedings pending in the United Kingdom.

16. *Aden* : (1) Sub-sections (2) to (4) of section two hundred and eighty-eight of the Government of India Act, 1935 (which confer on His Majesty power to make by Order in Council provision for the government of Aden) shall cease to have effect and the British Settlements Acts, 1887 and 1945, (which authorise His Majesty to make laws and establish institutions for British Settlements as defined in those Acts) shall apply in relation to Aden as if it were a British Settlement as so defined.

(2) Notwithstanding the repeal of the said sub-sections (2) to (4), the Orders in Council in force thereunder at the date of the passing of this Act shall continue in force, but the said Orders in Council, any other Orders in Council made under the Government of India Act, 1935, in so far as they apply to Aden, and any enactments applied to Aden or amended in relation to Aden by any such Orders in Council as aforesaid, may be repealed, revoked or amended under the powers of the British Settlements Acts, 1887 and 1945.

(3) Unless and until provision to the contrary is made as respects Aden under the powers of the British Settlements Acts, 1887 and 1945, or, as respects the new Dominion in question, by a law of the Legislature of that Dominion, the provisions of the said Orders in Council and enactments relating to appeals from any courts in Aden to any Courts which will, after the appointed day, be in either of the new Dominions, shall continue in force in their application both to Aden and to the Dominion in question, and the last mentioned courts shall exercise their jurisdiction accordingly.

17. *Divorce Jurisdiction* : (1) No court in either of the new Dominions shall, by virtue of the Indian and Colonial Divorce Jurisdiction Acts, 1926 and 1940, have jurisdiction in or in relation to any proceedings for a decree for the dissolution of a marriage, unless those proceedings were instituted before the appointed day, but, save as aforesaid and subject to any provision to the contrary which may hereafter be made by any Act of the Parliament of the United Kingdom or by any law of the Legislature of the new Dominion concerned, all courts in the new Dominions shall have the same jurisdiction under the said Acts as they would have had if this Act had not been passed.

(2) Any rules made on or after the appointed day under sub-section (4) of section one of the Indian and Colonial Divorce Jurisdiction Act, 1926, for a court in either of the new Dominions shall, instead of being made by the Secretary of State with the concurrence of the Lord Chancellor, be made by such authority as may be determined by the law of the Dominion concerned, and so much of the said sub-section and of any rules in force thereunder immediately before the appointed day as require the approval of the Lord Chancellor to the nomination for any purpose of any judges of any such court shall cease to have effect.

(3) The references in sub-section (1) of this section to proceedings for a decree for the dissolution of a marriage include references to proceedings

for such a decree of presumption of death and dissolution of a marriage as is authorized by section eight of the Matrimonial Causes Act, 1937.

(4) Nothing in this section affects any court outside the new Dominions, and the power conferred by section two of the Indian and Colonial Divorce Jurisdiction Act, 1926, to apply certain provisions of that Act to other parts of His Majesty's Dominions as they apply to India shall be deemed to be power to apply those provisions as they would have applied to India if this Act had not passed.

18. *Provisions as to existing laws, etc.*: (1) In so far as any Act of Parliament, Order in Council, order, rule, regulation or other instrument passed or made before the appointed day operates otherwise than as part of the law of British India or the new Dominions, references therein to India or British India, however worded and whether by name or not, shall, in so far as the context permits and except so far as Parliament may hereafter otherwise provide, be construed as, or as including, references to the new Dominions, taken together, or taken separately, according as the circumstances and subject matter may require:

Provided that nothing in this sub-section shall be construed as continuing in operation any provision in so far as the continuance thereof as adapted by this sub-section is inconsistent with any of the provisions of this Act other than this section.

(2) Subject to the provisions of sub-section (1) of this section and to any other express provision of this Act, the Orders in Council made under sub-section (5) of section three hundred and eleven of the Government of India Act, 1935, for adapting and modifying Acts of Parliament shall, except so far as Parliament may hereafter otherwise provide, continue in force in relation to all Acts in so far as they operate otherwise than as part of the law of British India or the new Dominions.

(3) Save as otherwise expressly provided in this Act, the law of British India and of the several parts thereof existing immediately before the appointed day shall, so far as applicable and with the necessary adaptations, continue as the law of each of the new Dominions and the several parts thereof until other provision is made by laws of the legislature of the Dominion in question or by any other Legislature or other authority having power in that behalf.

(4) It is hereby declared that the Instruments of Instructions issued before the passing of this Act by His Majesty to the Governor-General and the Governors of Provinces lapse as from the appointed day, and nothing in this Act shall be construed as continuing in force any provision of the Government of India Act, 1935, relating to such Instruments of Instructions.

(5) As from the appointed day, so much of any enactment as requires the approval of His Majesty in Council to any rules of court shall not apply to any court in either of the new Dominions.

19. *Interpretation, etc.* : (1) References in this Act to the Governor-General shall, in relation to any order to be made or other act done on or after the appointed day, be construed—

- (a) where the order or other act concerns one only of the new Dominions, as references to the Governor-General of that Dominion;
- (b) where the order or other act concerns both of the new Dominions and the same person is the Governor-General of both those Dominions, as references to that person; and
- (c) in any other case, as references to the Governors-General of the new Dominions, acting jointly.

(2) References in this Act to the Governor-General shall, in relation to any order to be made or other act done before the appointed day, be construed as references to the Governor-General of India within the meaning of the Government of India Act, 1935, and so much of that or any other Act as requires references to the Governor-General to be construed as references to the Governor-General in Council shall not apply to references to the Governor-General in this Act.

(3) References in this Act to the Constituent Assembly, of a Dominion shall be construed as references—

- (a) in relation to India, to the Constituent Assembly, the first sitting whereof was held on the ninth day of December, nineteen hundred and forty-six, modified—
  - (i) by the exclusion of the members representing Bengal, the Punjab, Sind and British Baluchistan; and
  - (ii) should it appear that the North-West Frontier Province will form part of Pakistan, by the exclusion of the members representing that province; and
  - (iii) by the inclusion of members representing West Bengal and East Punjab; and
  - (iv) should it appear that, on the appointed day, a part of the province of Assam is to form part of the new Province of East Bengal, by the exclusion of the members theretofore representing the Province of Assam, and the inclusion of members chosen to represent the remainder of that Province;

(b) in relation to Pakistan, to the Assembly set up or about to be set up at the date of the passing of this Act under the authority of the Governor-General as the Constituent Assembly for Pakistan : Provided that nothing in this sub-section shall be construed as affecting the extent to which representatives of the Indian States take part in either of the said Assemblies, or as preventing the filling of casual vacancies in the said Assemblies, or as preventing the participation in either of the said Assemblies in accordance with such arrangements as may be made in that behalf, of representatives of the tribal areas on the borders of the Dominion for which that



Assembly sits, and the powers of the said Assemblies shall extend, and be deemed always to have extended, to the making of provision for the matters specified in this proviso.

(4) In this Act, except so far as the context otherwise requires—

References to the Government of India Act, 1935, include references to any enactments amending or supplementing that Act, and, in particular, references to the India (Central Government and Legislature) Act, 1946 ;

“India”, where the reference is to a state of affairs existing before the appointed day or which would have existed but for the passing of this Act, has the meaning assigned to it by section three hundred and eleven of the Government of India Act, 1935 ;

“Indian forces” includes all His Majesty’s Indian forces existing before the appointed day and also any forces of either of the new Dominions;

“Pension” means, in relation to any person, a pension, whether contributory or not, of any kind whatsoever payable to or in respect of that person, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or other additions thereto, of subscriptions to a provident fund ;

“Province” means a Governor’s Province;

“Remuneration” includes leave pay, allowances and the cost of any privileges or facilities provided in kind.

(5) Any power conferred by this Act to make any order includes power to revoke or vary any order previously made in the exercise of that power.

20. *Short title* : This Act may be cited as the Indian Independence Act, 1947.

## SCHEDULES

### FIRST SCHEDULE

#### SECTION 3

*Bengal Districts provisionally included in the new Province of East Bengal*

In the Chittagong Division, the districts of Chittagong, Noakhali and Tippera.

In the Dacca Division, the districts of Bakarganj, Dacca, Faridpur and Mymensingh.

In the Presidency Division, the districts of Jessore, Murshidabad and Nadia.

In the Rajshahi Division, the districts of Bogra, Dinajpur, Malda, Pabna, Rajshahi and Rangpur.

### SECOND SCHEDULE

#### SECTION 4

*Districts provisionally included in the new Province of West Punjab*

In the Lahore Division, the districts of Gujranwala, Gurdaspur, Lahore, Sheikhupura and Sialkot.

In the Rawalpindi Division, the districts of Attock, Gujrat, Jhelum, Mianwali, Rawalpindi and Shahpur.

In the Multan Division, the districts of Dera Ghazi Khan, Jhang, Lyallpur, Montgomery, Multan and Muzaffargarh.

### THIRD SCHEDULE

#### SECTION 12

#### *Modifications of Army Act and Air Force Act in Relation to British Forces*

##### PART I

##### Modifications of Army Act applicable also to Air Force Act

1. The proviso to section forty-one (which limits the jurisdiction of courts martial) shall not apply to offences committed in either of the new Dominions or in any of the other territories which were included in India before the appointed day.

2. In section forty-three (which relates to complaints), the words "with the approval of the Governor-General of India in Council" shall be omitted.

3. In sub-sections (8) and (9) of section fifty-four (which, amongst other things, require certain sentences to be confirmed by the Governor-General in Council) the words "India or", the words "by the Governor-General, or as the case may be" and the words "In India, by the Governor-General, or, if he has been tried" shall be omitted.

4. In sub-section (3) of section seventy-three (which provides for the nomination of officers with power to dispense with courts martial for desertion and fraudulent enlistment) the words "with the approval of the Governor-General" shall be omitted.

5. The powers conferred by sub-section (5) of section one hundred and thirty (which provides for the removal of insane persons) shall not be exercised except with the consent of the officer commanding the forces in the new Dominions.

6. In sub-section (2) of section one hundred and thirty-two (which relates to rules regulating service prisons and detention barracks) the words "and in India for the Governor-General" and the words "the Governor-General" shall be omitted except as respects rules made before the appointed day.

7. In the cases specified in sub-section (1) of section one hundred and thirty-four, inquests shall be held in all cases in accordance with the provisions of sub-section (3) of that section.

8. In section one hundred and thirty-six (which relates to deductions from pay), in sub-section (1) the words "India or" and the words "being in the case of India a law of the Indian legislature", and the whole of sub-section (2) shall be omitted.

9. In paragraph (4) of section one hundred and thirty-seven (which relates to penal stoppages from the ordinary pay of officers), the words "or in the case of officers serving in India the Governor-General" the words "India or" and the words "for India or, as the case may be" shall be omitted.

10. In paragraph (12) of section one hundred and seventy-five and paragraph (11) of section one hundred and seventy-six (which apply the Act to certain members of His Majesty's Indian Forces and to certain other persons) the word "India" shall be omitted wherever it occurs.

11. In sub-section (1) of section one hundred and eighty (which provides for the punishment of misconduct by civilians in relation to courts martial) the words "India or" shall be omitted wherever they occur.

12. In the provisions of section one hundred and eighty-three relating to the reduction in rank of non-commissioned officers, the words "with the approval of the Governor-General" shall be omitted in both places where they occur.

## PART II

## Modifications of the Army Act

Section 184B (which regulates relations with the Indian Air Force) shall be omitted.

## PART III

## Modifications of the Air Force Act

1. In section 179D (which relates to the attachment of officers and airmen to Indian and Burma Air Forces), the words "by the Air Council and the Governor-General of India, or, as the case may be", and the words "India or", wherever those words occur, shall be omitted.

2. In section 184B (which regulates relations with Indian and Burma Air Forces) the words "India or" and the words "by the Air Council and the Governor-General of India or, as the case may be", shall be omitted.

3. Sub-paragraph (e) of paragraph (4) of section one hundred and ninety (which provides that officers of His Majesty's Indian Air Force are to be officers within the meaning of the Act) shall be omitted.

## ASSUMPTION OF POWER BY THE CONSTITUENT ASSEMBLY

August 14/15, 1947

*[After its first meeting on December 9, 1946, the most historic and memorable occasion in the life of the Constituent Assembly was the August 14/15 midnight session; with the clock striking the midnight hour, India was to 'awake to freedom' and the Constituent Assembly was to assume full sovereign powers for the governance of India. The session began at 11 p.m. with Shrimati Sucheta Kripalani singing the Vande Mataram song. After an address by the President, Jawaharlal Nehru moved his motion regarding the pledge by members and delivered his now famous 'tryst with destiny' speech. Nehru's motion was seconded by Khaliquzzaman. The only other speaker before midnight was S. Radhakrishnan who emphasised the unique nature of India's achievement and the importance of the occasion round which 'history and legend will grow'. As the clock struck twelve (midnight), the President and all the Members stood up and took the pledge, the President reading it out sentence by sentence and the Members repeating it after him in Hindustani and in English. Immediately after taking pledge, on a proposal from the President the House decided to intimate to the Viceroy that "the Constituent Assembly of India has assumed power for the governance of India, and ... has endorsed the recommendation that Lord Mountbatten be Governor-General of India from the 15th August 1947". The proceedings came to end with the presentation of the National Flag by Shrimati Hansa Mehta on behalf of the women of India and singing of the national songs 'Sare Jahan se Achcha' and 'Janaganamana' by Shrimati Sucheta Kripalani. The texts of the addresses by Rajendra Prasad, Nehru and Radhakrishnan are reproduced below.]*

### (I) PRESIDENT'S ADDRESS

IN THIS SOLEMN hour of our history when after many years of struggle we are taking over the governance of this country let us offer our humble thanks to the Almighty Power that shapes the destinies of men and nations and let us recall in grateful remembrance the services and sacrifices of all those men and women, known and unknown, who with smiles on their

face walked to the gallows or faced bullets on their chests, who experienced living death in the cells of the Andamans, or spent long years in the prisons of India, who preferred voluntary exile in foreign countries to a life of humiliation in their own, who not only lost wealth and property but cut themselves off from near and dear ones to devote themselves to the achievement of the great objective which we are witnessing today.

Let us also pay our tribute of love and reverence to Mahatma Gandhi who has been our beacon light, our guide and philosopher during the last thirty years or more. He represents that undying spirit in our culture and make-up which has kept India alive through vicissitudes of our history. He it is who pulled us out of the slough of despond and despair and blowed into us a spirit which enabled us to stand up for justice, to claim our birth-right of freedom and placed in our hands the matchless and unfailing weapon of Truth and Non-violence which without arms and armaments has won for us the invaluable prize of *Swaraj* at a price which, when the history of these times comes to be written, will be regarded as incredible for a vast country of our size and for the teeming millions of our population. We were indifferent instruments that he had to work with but he led us with consummate skill, with unwavering determination, with an undying faith in our future, with faith in his weapon and above all with faith in God. Let us prove true to that faith. Let us hope that India will not in the hour of her triumph give up or minimise the value of the weapon which served not only to rouse and inspire her in her moments of depression but has also proved its efficacy. India has a great part to play in the shaping and moulding of the future of a war-distracted world. She can play that part not by mimicking from a distance what others are doing, or by joining in the race for armaments and competing with others in the discovery of the latest and most effective instruments of destruction. She has now the opportunity, and, let us hope, she will have the courage and strength to place before the world for its acceptance her infallible substitute for war and bloodshed, death and destruction. The world needs it and will welcome it, unless it is prepared to reel back into barbarism from which it boasts to have emerged.

Let us then assure all countries of the world that we propose to stick to our historic tradition to be on terms of friendship and amity with all, that we have no designs against any one and hope that none will have any against us. We have only one ambition and desire, that is, to make our contribution to the building up of freedom for all and peace among mankind.

The country which was made by God and Nature to be one stands divided today. Separation from near and dear ones, even from strangers after some association, is always painful. I would be untrue to myself if I did not at this moment confess to a sense of sorrow at this separation,

but I wish to send on your behalf and my own our greetings and good wishes for success and the best of luck in the high endeavour of government in which the people of Pakistan, which till today has been a part and parcel of ourselves, will be engaged. To those who feel like us but are on the other side of the border we send a word of cheer. They should not give way to panic but should stick to their hearths and homes, their religion and culture and cultivate the qualities of courage and forbearance. They have no reason to fear that they will not get protection and just and fair treatment and they should not become victims of doubt and suspicion. They must accept the assurances publicly given and win their rightful place in the polity of the State where they are placed by their loyalty.

To all the minorities in India we give the assurance that they will receive fair and just treatment and there will be no discrimination in any form against them. Their religion, their culture and their language are safe and they will enjoy all the rights and privileges of citizenship, and will be expected in their turn to render loyalty to the country in which they live and to its constitution. To all we give the assurance that it will be our endeavour to end poverty and squalor and its companions, hunger and disease; to abolish distinctions and exploitation and to ensure decent conditions of living.

We are embarking on a great task. We hope that in this we shall have the unstinted service and co-operation of all our people and the sympathy and support of all the communities. We shall do our best to deserve it.

## (II) NEHRU'S SPEECH ON HIS MOTION REGARDING PLEDGE BY MEMBERS

\*Long years ago we made a tryst with destiny, and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially. At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom. A moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends, and when the soul of a nation, long suppressed, finds utterance. It is fitting that at this solemn moment we take the pledge of dedication to the service of India and her people and to the still larger cause of humanity.

At the dawn of history India started on her unending quest, and trackless centuries are filled with her striving and the grandeur of her successes and her failures. Through good and ill fortune alike she has never lost sight of that quest or forgotten the ideals which gave her strength. We

\*This was preceded by Nehru's speech in Hindustani.

end today a period of ill fortune and India discovers herself again. The achievement we celebrate today is but a step, an opening of opportunity, to the greater triumphs and achievements that await us. Are we brave enough and wise enough to grasp this opportunity and accept the challenge of the future?

Freedom and power bring responsibility. That responsibility rests upon this Assembly, a sovereign body representing the sovereign people of India. Before the birth of freedom we have endured all the pains of labour and our hearts are heavy with the memory of this sorrow. Some of those pains continue even now. Nevertheless the past is over and it is the future that beckons to us now.

That future is not one of ease or resting but of incessant striving so that we might fulfil the pledges we have so often taken and the one we shall take today. The service of India means the service of the millions who suffer. It means the ending of poverty and ignorance and disease and inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear from every eye. That may be beyond us but as long as there are tears and suffering, so long our work will not be over.

And so we have to labour and to work and work hard to give reality to our dreams. Those dreams are for India, but they are also for the world, for all the nations and peoples are too closely knit together today for any one of them to imagine that it can live apart. Peace has been said to be indivisible; so is freedom, so is prosperity now, and so also is disaster in this One World that can no longer be split into isolated fragments.

To the people of India, whose representatives we are, we make appeal to join us with faith and confidence in this great adventure. This is no time for petty and destructive criticism, no time for ill-will or blaming others. We have to build the noble mansion of free India where all her children may dwell.

I beg to move, Sir.

That it be resolved that :

(1) After the last stroke of midnight, all members of the Constituent Assembly present on this occasion, do take the following pledge :

At this solemn moment when the people of India, through suffering and sacrifice, have secured freedom, I.....a member of the Constituent Assembly of India, do dedicate myself in all humility to the service of India and her people to the end that this ancient land attain her rightful place in the world and make her full and willing contribution to the promotion of world peace and the welfare of mankind :

(2) Members who are not present on this occasion do take the pledge (with such verbal changes as the President may prescribe) at the time they next attend a session of the Assembly. (*Loud applause.*)

## (III) RADHAKRISHNAN'S SPEECH

Mr. President, Sir, it is not necessary for me to speak at any great length on this Resolution so impressively moved by Pandit Jawaharlal Nehru and seconded by Mr. Khaliqzaman. History and legend will grow round this day. It marks a milestone in the march of our democracy. A significant date it is in the drama of the Indian people who are trying to rebuild and transform themselves. Through a long night of waiting, a night full of fateful portents and silent prayers for the dawn of freedom, of haunting spectres of hunger and death, our sentinels kept watch, the lights were burning bright till at last the dawn is breaking and we greet it with the utmost enthusiasm. When we are passing from a state of serfdom, a state of slavery and subjection to one of freedom and liberation, it is an occasion for rejoicing. That it is being effected in such an orderly and dignified way is a matter for gratification.

Mr. Attlee spoke with visible pride in the House of Commons when he said that this is the first great instance of a strong Imperialist power transferring its authority to a subject people whom it ruled with force and firmness for nearly two centuries. For a parallel he cited the British withdrawal from South Africa; but it is nothing comparable in scale and circumstances to the British withdrawal from this country. When we see what the Dutch are doing in Indonesia, when we see how the French are clinging to their possessions, we cannot but admire the political sagacity and courage of the British people. (*Cheers.*)

We on our side, have also added a chapter to the history of the World. Look at the way in which subject peoples in history won their freedom. Let us also consider the methods by which power was acquired. How did men like Washington, Napoleon, Cromwell, Lenin, Hitler and Mussolini get into power? Look at the methods of blood and steel, of terrorism and assassination, of bloodshed and anarchy by which these so-called great men of the world came into the possession of power. Here in this land under the leadership of one who will go down in history as perhaps the greatest man of our age (*loud cheers*) we have opposed patience to fury, quietness of spirit to bureaucratic tyranny and are acquiring power through peaceful and civilised methods. What is the result? The transition is being effected with the least bitterness, with utterly no kind of hatred at all. The very fact that we are appointing Lord Mountbatten as the Governor-General of India shows the spirit of understanding and friendliness in which this whole transition is being effected. (*Cheers.*)

You, Mr. President, referred to the sadness in our hearts, to the sorrow which also clouds our rejoicings. May I say that we are in an essential sense responsible for it also though not entirely. From 1600, Englishmen have come to this country—priests and nuns, merchants and adventurers, diplomats and statesmen, missionaries and idealists. They bought and sold,



marched and fought, plotted and profited, helped and healed. The greatest among them wished to modernise the country, to raise its intellectual and moral standards, its political status. They wished to regenerate the whole people. But the small among them worked with sinister objectives. They tried to increase the disunion in the country, made the country poorer, weaker and more disunited. They also have had their chance now. The freedom we are attaining is the fulfilment of this dual tendency among British administrators. While India is attaining freedom, she is attaining it in a manner which does not produce joy in the hearts of people or a radiant smile on their faces. Some of those who were charged with the responsibility for the administration of this country tried to accentuate communal consciousness and bring about the present result which is a logical outcome of the policies adopted by the lesser minds of Britain. But I would never blame them. Were we not victims, ready victims, so to say, of the separatist tendencies foisted on us? Should we not now correct our national faults of character, our domestic despotism, our intolerance which has assumed the different forms of obscurantism, of narrow-mindedness, of superstitious bigotry? Others were able to play on our weakness because we had them. I would like therefore to take this opportunity to call for self-examination, for a searching of hearts. We have gained but we have not gained in the manner we wished to gain and if we have not done so, the responsibility is our own. And when this pledge says that we have to serve our country, we can best serve our country by removing these fundamental defects which have prevented us from gaining the objective of a free and united India. Now that India is divided, it is our duty not to indulge in words of anger. They lead us nowhere. We must avoid passion. Passion and wisdom never go together. The body politic may be divided but the body historic lives on. (*Hear, hear.*) Political divisions, physical partitions, are external but the psychological divisions are deeper. The cultural cleavages are the more dangerous. We should not allow them to grow. What we should do is to preserve those cultural ties, those spiritual bonds which knit our peoples together into one organic whole. Patient consideration, slow process of education, adjustment to one another's needs, the discovery of points of view which are common to both the dominions in the matter of Communications, Defence, Foreign Affairs, these are the things which should be allowed to grow in the daily business of life and administration. It is by developing such attitudes that we can once again draw near and gain the lost unity of this country. That is the only way to it.

Our opportunities are great but let me warn you that when power outstrips ability, we will fall on evil days. We should develop competence and ability which would help us to utilise the opportunities which are now open to us. From tomorrow morning—from midnight today—we cannot throw the blame on the Britisher. We have to assume the responsibility ourselves for what we do. A free India will be judged by the way in which

it will serve the interests of the common man in the matter of food, clothing, shelter and the social services. Unless we destroy corruption in high places, root out every trace of nepotism, love of power, profiteering and black-marketing which have spoiled the good name of this great country in recent times, we will not be able to raise the standards of efficiency in administration as well as in the production and distribution of the necessary goods of life.

Pandit Jawaharlal Nehru referred to the great contribution which this country will make to the promotion of world peace and the welfare of mankind. The *Chakra*, the Asokan wheel, which is there in the flag embodies for us a great idea. Asoka, the greatest of our emperors,—look at the words of H.G. Wells regarding him “Highnesses, Magnificences, Excellencies, Serenities, Majesties”—among them all, he shines alone, a star—Asoka the greatest of all monarchs.” He cut into rock his message for the healing of discords. If there are differences, the way in which you can solve them is by promoting concord. Concord is the only way by which we can get rid of differences. There is no other method which is open to us.

*Samavāya eva Sādhuh*

We are lucky in having for our leader one who is a world citizen, who is essentially a humanist, who possesses a buoyant optimism and robust good sense in spite of the perversity of things and the hostility of human affairs. We see the way in which his Department interfered actively and in a timely manner in the Indonesian dispute. (*Loud applause.*) It shows that if India gains freedom, that freedom will be used not merely for the well-being of India but for *Vishva Kalyana i.e.*, world peace, the welfare of mankind.

Our pledge tells us that this ancient land shall attain her rightful and honoured place. We take pride in the antiquity of this land for it is a land which has seen nearly four or five milleniums of history. It has passed through many vicissitudes and at the moment it stands, still responding to the thrill of the same great ideal. Civilisation is a thing of the spirit, it is not something external, solid and mechanical. It is the dream in the people's hearts. It is the inward aspiration of the people's souls. It is the imaginative interpretation of the human life and the perception of the mystery of human existence. That is what civilisation actually stands for. We should bear in mind these great ideals which have been transmitted to us across the ages. In this great time of our history we should bear ourselves humbly before God, brace ourselves to this supreme task which is confronting us and conduct ourselves in a manner that is worthy of the ageless spirit of India. If we do so I have no doubt that the future of this land will be as great as its once glorious past.

*Sarvabhūtasthamātmānam*

*Sarvabhūtāni cātmani*

*Sampasyam ātmayājivai*

*Sāārwyam adhigachchati*

*Swarajya* is the development of that kind of tolerant attitude which sees in brother man the face Divine. Intolerance has been the greatest enemy of our progress. Tolerance of one another's views, thoughts and beliefs is the only remedy that we can possibly adopt. Therefore, I support with very great pleasure this Resolution which asks us as the representatives of the people of India to conduct ourselves in all humility, in the service of our country and the word 'Humility' here means that we are by ourselves very insignificant. Our efforts by themselves cannot carry us to a long distance. We should make ourselves dependent on that other than ourselves which makes for righteousness. The note of humility means the unimportance of the individual and the supreme importance of the unfolding purpose which we are called upon to serve. So in a mood of humility, in a spirit of dedication let us take this pledge as soon as the clock strikes twelve.

GOODWILL MESSAGES FROM ABROAD AND  
ADDRESSES BY THE GOVERNOR-GENERAL AND  
THE PRESIDENT OF THE CONSTITUENT ASSEMBLY  
August 15, 1947

*[On the occasion of India's achieving independence and the assumption of sovereign power by the Constituent Assembly, all doubts in regard to the sovereign character of the Assembly were finally removed, and when the House met at 10 o'clock on August 15, 1947, it heard several goodwill messages besides the addresses of the first Governor-General of independent India and the President of the Assembly. The texts of the messages and addresses along with facsimile of President Rajendra Prasad's original manuscript—in Hindustani—are reproduced below.]*

(I) MESSAGE FROM THE PRIME MINISTER OF THE UNITED KINGDOM

MY COLLEAGUES in the United Kingdom Government join with me in sending on this historic day greetings and good wishes to the Government and the people of India. It is our earnest wish that India may go forward in tranquillity and prosperity and in so doing contribute to the peace and prosperity of the world.

(II) MESSAGE FROM THE ARCHBISHOP OF CANTERBURY

At this time when India and Pakistan become independent Dominions and take upon themselves the full responsibilities of self-Government, on behalf of the Christian people of this country I send you my greetings and good wishes. In God's providence apparently insuperable difficulties have so far been overcome and all the travail of past ages has led up to this moment of fulfilment and hope. I pray that the two Dominions may go forward to a noble future ever growing in justice and peace, in brotherhood and prosperity.

(III) MESSAGE FROM THE PRESIDENT OF THE REPUBLIC OF CHINA

On this auspicious occasion when the people of India celebrate the Dawn

of a new era of freedom, I wish to convey to you and the people of India my warm congratulations on the glorious and monumental achievement in which you and Mahatma Gandhi have played such an eminent and noble part, and which, I am confident, will be a source of inspiration to all peoples striving for independence, equality and progress. Please accept my best wishes for India's bright and promising future of success and greatness.

(IV) MESSAGE FROM THE PRIME MINISTER OF CANADA

It affords me much pleasure to extend to you, and through you to the Government and people of India, the most cordial wishes of the Government and people of Canada on the occasion of the establishment of India as a completely self-governing nation.

(V) MESSAGE FROM THE PRIME MINISTER OF AUSTRALIA

I desire to convey the greetings and good wishes of the Government and people of Australia to the Government and people of India on the historic occasion which is being celebrated on the 15th August.

The Australian people rejoice in your new status as a free and sovereign nation and warmly welcome your fellow membership in the British Commonwealth of Nations.

It is confidently anticipated that your traditions, your ancient culture and the spirit which is animating you in making smooth this period of transition, will ensure the future welfare and greatness of the people of India.

(VI) MESSAGE FROM THE PRESIDENT OF THE EXECUTIVE, YUAN  
NANKING

On this historic occasion of India's attainment of her long cherished aspirations I take especial pleasure in extending to you and the Indian people my sincere felicitations. The Chinese people are deeply gratified by the rebirth of another great nation on the Asian continent. India and China with a common frontier of 2,000 miles have enjoyed the closest and most friendly relations in the course of many centuries. Our two nations having stood together through the late world war will undoubtedly continue to march forward together toward the common goal of world peace. I send you my warmest wishes for your continued success and for the happiness and prosperity of the Indian people.

(VII) MESSAGE FROM DR. SOEDARSONO ON BEHALF OF THE  
REPUBLIC OF INDONESIA

On the eve of the establishment of the Dominion of India it is a great

pleasure to the Republic of Indonesia to express her feelings of heartfelt joy, sympathy and friendship.

The Republic of Indonesia looks upon India as her Comrade who in time of danger and distress has helped her and will always help her. She may—as both their nationalism is based upon humanity—hope that in the very near future still tighter bonds will be welded, bonds of comradeship in the struggle for Justice and Peace and for the Freedom and Prosperity of millions who for so long a time have lived in squalor amidst luxury and wealth.

The people of India since years led by its eminent Leaders undoubtedly is approaching a better and happier future. India will not only become a land of Justice and Prosperity but at the same time a bulwark of and a guard for peace in Asia.

The Government and the People of the Republic of Indonesia send your People, your Government and your Excellency at this great historical moment their deeply felt wishes for Happiness and Prosperity.

#### (VIII) MESSAGE FROM HIS MAJESTY'S MINISTER IN NEPAL

My staff join me in offering warmest congratulations on establishment of Dominion of India and send all good wishes for future happiness and prosperity of State and its people.

#### (IX) MESSAGE FROM THE PRIME MINISTER AND ACTING MINISTER OF FOREIGN AFFAIRS OF NORWAY

On this Great Day of National Rejoicing for the Peoples of India I have the honour to transmit to you my very best wishes for the prosperity of your country.

#### (X) MESSAGE FROM THE MINISTER OF FOREIGN AFFAIRS OF FRANCE

In the name of my Government and in my own I salute the historic date which marks the final accession of India to the ranks of the World's great free nations devoted to the cause of peace and earnestly desirous of the prosperity of all the peoples of the world. I request Your Excellency to accept, on this occasion, the renewed assurances of my very high consideration and of my entire devotion to the cause of friendship between our two countries.

#### (XI) MESSAGE FROM THE PRESIDENT OF THE UNITED STATES OF AMERICA

On this memorable occasion I extend to you, to Prime Minister Jawaharlal Nehru and to the People of the Dominion of India the sincere best wishes

of the Government and the people of the United States of America. We welcome India's new and enhanced status in the world community of sovereign independent nations, assure the new Dominion of our continued friendship and goodwill, and reaffirm our confidence that India, dedicated to the cause of peace and to the advancement of all peoples, will take its place at the forefront of the nations of the world in the struggle to fashion a world Society founded in mutual trust and respect. India faces many grave problems, but its resources are vast, and I am confident that its people and leadership are equal to the tasks ahead. In the years to come the people of this great new nation will find the United States a constant friend. I earnestly hope that our friendship will in the future, as in the past, continue to be expressed in close and fruitful co-operation in international undertakings and in cordiality in our relations one with the other.

I wish to avail myself of this opportunity of extending my personal congratulations to your Excellency on your assumption of the post of Governor-General of the Dominion of India and at the same time to convey assurance of my highest consideration.

#### (XII) GOVERNOR-GENERAL'S ADDRESS

Mr. President and members of the Constituent Assembly,

I have a message from His Majesty the King to deliver to you today. This is His Majesty's message :—

On this historic day when India takes her place as a free and independent Dominion in the British Commonwealth of Nations, I send you all my greetings and heartfelt wishes.

Freedom loving people everywhere will wish to share in your celebrations, for with this transfer of power by consent comes the fulfilment of a great democratic ideal to which the British and Indian peoples alike are firmly dedicated. It is inspiring to think that all this has been achieved by means of peaceful change.

Heavy responsibilities lie ahead of you, but when I consider the statesmanship you have already shown and the great sacrifices you have already made, I am confident that you will be worthy of your destiny.

I pray that the blessings of the Almighty may rest upon you and that your leaders may continue to be guided with wisdom in the tasks before them. May the blessings of friendship, tolerance and peace inspire you in your relations with the nations of the world. Be assured always of my sympathy in all your efforts to promote the prosperity of your people and the general welfare of mankind.

It is barely six months ago that Mr. Attlee invited me to accept the appointment of last Viceroy. He made it clear that this would be no easy task—since His Majesty's Government in the United Kingdom had decided to transfer power to Indian hands by June 1948. At that time it seemed to many that His Majesty's Government had set a date far too early. How could this tremendous operation be completed in 15 months?

However, I had not been more than a week in India before I realised that this date of June 1948 for the transfer of power was too late rather than too early; communal tension and rioting had assumed proportions of which I had had no conception when I left England. It seemed to me that a decision had to be taken at the earliest possible moment unless there was to be risk of a general conflagration throughout the whole sub-continent.

I entered into discussions with the leaders of all the parties at once—and the result was the plan of June 3rd. Its acceptance has been hailed as an example of fine statesmanship throughout the world. The plan was evolved at every stage by a process of open diplomacy with the leaders. Its success is chiefly attributable to them.

I believe that this system of open diplomacy was the only one suited to the situation in which the problems were so complex and the tension so high. I would here pay tribute to the wisdom, tolerance and friendly help of the leaders which have enabled the transfer of power to take place ten and a half months earlier than originally intended.

At the very meeting at which the plan of June 3rd was accepted, the Leaders agreed to discuss a paper which I had laid before them on the administrative consequences of partition; and then and there we set up the machinery which was to carry out one of the greatest administrative operations in history—the partition of a sub-continent of 400 million inhabitants and the transfer of power to two independent governments in less than two and a half months. My reason for hastening these processes was that, once the principle of division had been accepted, it was in the interest of all parties that it should be carried out with the utmost speed. We set a pace faster in fact than many at the time thought possible. To the Ministers and officials who have laboured day and night to produce this astonishing result, the greatest credit is due.

I know well that the rejoicing which the advent of freedom brings is tempered in your hearts by the sadness that it could not come to a united India; and that the pain of division has shorn today's events of some of its joy. In supporting your leaders in the difficult decision which they had to take, you have displayed as much magnanimity and realism as have those patriotic statesmen themselves.

These statesmen have placed me in their debt for ever by their sympathetic understanding of my position. They did not, for example, press their original request that I should be the Chairman of the Arbitral Tribunal. Again they agreed from the outset to release me from any responsibility whatsoever for the partition of the Punjab and Bengal. It was they who selected the personnel of the Boundary Commissions including the Chairman; it was they who drew up the terms of reference; it is they who shoulder the responsibility for implementing the award. You will appreciate that had they not done this, I would have been placed in an impossible position.

Let me now pass to the Indian States. The plan of June 3rd dealt almost



exclusively with the problem of the transfer of power in British India; and the only reference to the States was a paragraph which recognised that on the transfer of power, all the Indian States—565 of them—would become independent. Here then was another gigantic problem and there was apprehension on all sides. But after the formation of the States Department it was possible for me, as Crown Representative, to tackle this great question. Thanks to that far-sighted statesman, Sardar Vallabhbhai Patel, Member in charge of the States Department, a scheme was produced which appeared to me to be equally in the interests of the States as of the Dominion of India. The overwhelming majority of States are geographically linked with India, and therefore this Dominion had by far the bigger stake in the solution of this problem. It is a great triumph for the realism and sense of responsibility of the Rulers and the Governments of the States, as well as for the Government of India, that it was possible to produce an Instrument of Accession which was equally acceptable to both sides; and one, moreover, so simple and so straightforward that within less than three weeks practically all the States concerned had signed the Instrument of Accession and the Standstill Agreement. There is thus established a unified political structure covering over 300 million people and the major part of this great sub-continent.

The only State of the first importance that has not yet acceded is the premier State, Hyderabad.

Hyderabad occupies a unique position in view of its size, population and resources, and it has its special problems. The Nizam while he does not propose to accede to the Dominion of Pakistan, has not up to the present felt able to accede to the Dominion of India. His Exalted Highness has, however, assured me of his wish to co-operate in the three essential subjects of External Affairs, Defence and Communications with that Dominion whose territories surround his State. With the assent of the Government, negotiations will be continued with the Nizam and I am hopeful that we shall reach a solution satisfactory to all.

From today I am your constitutional Governor-General and I would ask you to regard me as one of yourselves, devoted wholly to the furtherance of India's interests. I am honoured that you have endorsed the invitation originally made to me by your leaders to remain as your Governor-General. The only consideration I had in mind in accepting was that I might continue to be of some help to you in difficult days which lie immediately ahead. When discussing the Draft of the Indian Independence Act your leaders selected the 31st March 1948 as the end of what may be called the interim period. I propose to ask to be released in April. It is not that I fail to appreciate the honour of being invited to stay on in your service, but I feel that as soon as possible India should be at liberty, if you so wish, to have one of her own people as her Governor-General. Until then my wife and I will consider it a privilege to continue to work with and amongst you. No words can express our gratitude for the understanding and

co-operation as well as the true sympathy and generosity of spirit which have been shown to us at all times.

I am glad to announce that "my" Government (as I am now constitutionally entitled and most proud to call them) have decided to mark this historic occasion by a generous programme of amnesty. The categories are as wide as could be consistent with the over-riding consideration of public morality and safety, and special account has been taken of political motives. This policy will also govern the release of military prisoners undergoing sentences as a result of trial by courts-martial.

The tasks before you are heavy. The war ended two years ago. In fact, it was on this very day two years ago that I was with that great friend of India, Mr. Attlee in his Cabinet Room when the news came through that Japan had surrendered. That was a moment for thankfulness and rejoicing, for it marked the end of six bitter years of destruction and slaughter. But in India we have achieved something greater—what has been well described as "A treaty of Peace without a War". Nevertheless, the ravages of the war are still apparent all over the world. India, which played such a valient part, as I can personally testify from my experience in South-East Asia, has also had to pay her price in the dislocation of her economy and the casualties to her gallant fighting men with whom I was so proud to be associated. Preoccupations with the political problem retarded recovery. It is for you to ensure the happiness and ever-increasing prosperity of the people, to provide against future scarcities of food, cloth and essential commodities and to build up a balanced economy. The solution of these problems requires immediate and whole-hearted effort and far-sighted planning, but I feel confident that with your resources in men, material and leadership you will prove equal to the task.

What is happening in India is of far more than purely national interest. The emergence of a stable and prosperous state will be a factor of the greatest international importance for the peace of the world. Its social and economic development, as well as its strategic situation and its wealth of resources, invest with great significance the events that take place here. It is for this reason that not only Great Britain and the sister Dominions but all the great nations of the world will watch with sympathetic expectancy the fortunes of this country and will wish to it all prosperity and success.

At this historic moment, let us not forget all that India owes to Mahatma Gandhi—the architect of her freedom through non-violence. We miss his presence here today, and would have him know how much he is in our thoughts.

Mr. President, I would like you and our other colleagues of the late Interim Government to know how deeply I have appreciated your unfailing support and co-operation.

In your first Prime Minister, Pandit Jawaharlal Nehru, you have a world-renowned leader of courage and vision. (*Cheers.*) His trust and friendship

have helped me beyond measure in my task. Under his able guidance, assisted by the colleagues whom he has selected, and with the loyal co-operation of the people, India will now attain a position of strength and influence and take her rightful place in the comity of nations. (*Loud and prolonged cheers.*)

### (XIII) PRESIDENT RAJENDRA PRASAD'S ADDRESS

Let us in this momentous hour of our history, when we are assuming power for the governance of our country, recall in grateful remembrance the services and sacrifices of all those who laboured and suffered for the achievement of the independence we are attaining today. Let us on this historic occasion pay our homage to the maker of our modern history, Mahatma Gandhi, who has inspired and guided us through all these years of trial and travail and who in spite of the weight of years is still working in his own way to complete what is left yet unaccomplished.

Let us gratefully acknowledge that while our achievement is in no small measure due to our own sufferings and sacrifices, it is also the result of world forces and events and last though not least it is the consummation and fulfilment of the historic traditions and democratic ideals of the British race whose farsighted leaders and statesmen saw the vision and gave the pledges which are being redeemed today. We are happy to have in our midst as a representative of that race Viscount Mountbatten of Burma and his consort who have worked hard and played such an important part in bringing this about during the closing scenes of this drama. The period of domination by Britain over India ends today and our relationship with Britain is henceforward going to rest on a basis of equality, of mutual goodwill and mutual profit.

It is undoubtedly a day of rejoicing. But there is only one thought which mars and detracts from the fullness of this happy event. India, which was made by God and Nature to be one, which culture and tradition and history of millenniums have made one, is divided today and many there are on the other side of the boundary who would much rather be on this side. To them we send a word of cheer and assurance and ask them not to give way to panic or despair but to live with faith and courage in peace with their neighbours and fulfil the duties of loyal citizenship and thus win their rightful place. We send our greetings to the new Dominion which is being established today there and wish it the best luck in its great work of governing that region and making all its citizens happy and prosperous. We feel assured that they all will be treated fairly and justly without any distinction or discrimination. Let us hope and pray that the day will come when even those who have insisted upon and brought about this division will realise India's essential oneness and we shall be united once again. We must realise however that this can be brought about not by force but by large-heartedness and co-operation and by so managing our

affairs on this side as to attract those who have parted. It may appear to be a dream but it is no more fantastic a dream than that of those who wanted a division and may well be realised even sooner than we dare hope for today.

More than a day of rejoicing it is a day of dedication for all of us to build the India of our dreams. Let us turn our eyes away from the past and fix our gaze on the future. We have no quarrel with other nations and countries and let us hope no one will pick a quarrel with us. By history and tradition we are a peaceful people and India wants to be at peace with the world. India's Empire outside her own borders has been of a different kind from all other Empires.\* India's conquests have been the conquests of spirit which did not impose heavy chains of slavery, whether of iron or of gold, on others but tied other lands and other peoples to her with the more enduring ties of golden silk—of culture and civilisation, of religion and knowledge (*gyan*). We shall follow that same tradition and shall have no ambition save that of contributing our little mite to the building of peace and freedom in a war-distracted world by holding aloft the banner under which we have marched to victory and placing in a practical manner in the hands of the world the great weapon of Non-violence which has achieved this unique result. India has a great part to play. There is something in her life and culture which has enabled her to survive the onslaughts of time and today we witness a new birth full of promise, if only we prove ourselves true to our ideals.

Let us resolve to create conditions in this country when every individual will be free and provided with the wherewithal to develop and rise to his fullest stature, when poverty and squalor and ignorance and ill-health will have been vanished, when the distinction between high and low, between rich and poor, will have disappeared, when religion will not only be professed and preached and practised freely but will have become a cementing force for binding man to man and not serve as a disturbing and disrupting force dividing and separating, when untouchability will have been forgotten like an unpleasant night dream, when exploitation of man

\*The original text of the speech prepared by President Rajendra Prasad in his own hand—both in Hindi and English—contained a statement which said: "In the long and chequered history of India extending over millenniums there is no record of any invasion or conquest led by her sons to any foreign country." This was, however, omitted on a suggestion from Jawaharlal Nehru to whom Rajendra Prasad sent the text of the speech on August 13, 1947 "for favour of such suggestions" as he might make. While returning the text to Rajendra Prasad the next day, Nehru wrote: "There is only one thing I should like to point out. In paragraph 4 of your speech for the 15th you say that in the long history of India there is no record of any invasion or conquest led by her sons to any foreign country. I doubt if this is correct as there were great colonising expeditions from India to South East Asia." [See the facsimile of Rajendra Prasad's speech for the modifications made in the Hindi text. Similar modifications were made in the English version]—Editor,

by man will have ceased, when facilities and special arrangements will have been provided for the *adimjatis* of India and for all others who are backward, to enable them to catch up to others and when this land will have not only enough food to feed its teeming millions but will once again have become a land flowing with rivers of milk, when men and women will be laughing and working for all they are worth in fields and factories, when every cottage and hamlet will be humming with sweet music of village handicrafts and maids will be busy with them and singing to their tune—when the sun and the moon will be shining on happy homes and loving faces.

To bring all this about we need all the idealism and sacrifice, all the intelligence and diligence, all the determination and the power of organisation that we can muster. We have many parties and groups with differing ideals and ideologies. They are all trying to convert the country to their own ideologies and to mould the constitution and the administration to suit their own view point. While they have the right to do so the country and the nation have the right to demand loyalty from them. All must realise that what is needed most today is a great constructive effort—not strife, hard solid work—not argumentation and let us hope that all will be prepared to make their contribution. We want the peasant to grow more food, we want the workers to produce more goods, we want our industrialists to use their intelligence, tact and resourcefulness for the common good. To all we must assure conditions of decent and healthy life and opportunities for self-improvement and self-realisation.

Not only have the people to dedicate themselves to this great task that lies ahead but those who have so far been playing the role of rulers and regulators of the lives of our men and women have to assume the role of servants. Our army has won undying glory in distant lands for its bravery and great fighting qualities. Our soldiers, sailors and airmen have to realise that they now form a national army on whom devolves the duty not only of defending the freedom which we have won but also to help in a constructive way in building up a new life. There is no place in the armed forces of our country which is not open to our people, and what is more they are required to take the highest places as soon as they can so that they may take full charge of our defences. Our public servants in various departments of Government have to shed their role as rulers and have to become true servants of the people that their compeers are in all free countries. The people and the Government on their side have to give them their trust and assure them conditions of service in keeping with the lives of the people in whose midst they have to live and serve.

We welcome the Indian States which have acceded to India and to their people we offer our hands of comradeship. To the princes and the rulers of the States we say that we have no designs against them. We trust they will follow the example of the King of England and become

constitutional rulers. They would do well to take as their model the British monarchical system which has stood the shock of two successive world wars when so many other monarchies in Europe have toppled down.

To Indians settled abroad in British Colonies and elsewhere we send our good wishes and assurance of our abiding interest in their welfare. To our minorities we give the assurance that they will receive fair and just treatment and their rights will be respected and protected.

One of the great tasks which we have in hand is to complete the constitution under which not only will freedom and liberty be assured to each and all but which will enable us to achieve and attain and enjoy its fulfilment and its fruits. We must accomplish this task as soon as possible so that we may begin to live and work under a constitution of our own making, of which we may all be proud, and which it may become our pride and privilege to defend and to preserve to the lasting good of our people and for the service of mankind. In framing that constitution we shall naturally draw upon the experience and knowledge of other countries and nations no less than on our own traditions and surroundings and may have at times to disregard the lines drawn by recent history and lay down new boundary lines not only of Provinces but also of distribution of powers and functions. Our ideal is to have a constitution that will enable the people's will to be expressed and enforced and that will not only secure liberty to the individual but also reconcile and make that liberty subservient to the common good.

We have up to now been taking a pledge to achieve freedom and to undergo all sufferings and sacrifices for it. Time has come when we have to take a pledge of another kind. Let no one imagine that the time for work and sacrifice is gone and the time for enjoying the fruits thereof has come. Let us realise that the demand on our enthusiasm and capacity for unselfish work in the future will be as great as, if not greater than, what it has ever been before. We have therefore, to dedicate ourselves once again to the great cause that beckons us. The task is great, the times are propitious. Let us pray that we may have the strength, the wisdom and the courage to fulfil it.

FACSIMILE  
OF  
RAJENDRA PRASAD'S ADDRESS IN HINDI  
*August 15, 1947*







इस युग बड़ी में जब हम स्वतंत्रता के अधिकारों को, आजादी के अधिकारों को अपने हाथों में लेने जा रहे हैं, हमारा पहला कर्तव्य है कि हम उनके प्रति सकारात्मक अभिप्रेत करें जिन्होंने इस दिन के लाने के लिये अपनी जिन्दगी लगा दी और 1787 1788 के कष्ट सहें और मुसीबतें भोगी।

इस ऐतिहासिक अवसर पर - इस तवारिखी मौके पर हम अपने राष्ट्र के निर्माता महत्मा गांधी को भी अपनी शक्ति अर्पित करते हैं जिन्होंने इन कठिन दिनों में हमारी रक्षामूर्ति की है और हमें अनुप्राणित किया है और आज अपनी वृद्धावस्था में भी जो अग्रणी रहे जा रहे हैं उसे पूरा करने में अपनी अद्भुत शक्ति लगा रहे हैं।

हमने आज जो स्वतंत्रता पायी है वह हमारे तप और त्याग और कुशली का फल है। साथ ही हमें यह भी मानना चाहिये कि उनके लाने में संसद और इसके सदस्यों की स्थिति भी सहायक और मददगार रही है। हमें यह भी मानना चाहिये कि ब्रिटिश साम्राज्य ने भी अपने इतिहास और संस्कृति के अग्रसार-अपने तमदुन और तवारिख के मुताबिक अपने उन उदात्तता और दृढ़ता नेवाओं और राजनीतियों-अपने दूर अन्वेष और फैलाव स्वशासन लीडरों के स्वप्नों और सपनों को पूरा किया है जिन्होंने इस दिन की गतिविधियों की भी और समय समय पर इसे लाने की प्रतिज्ञा की भी। आज हमें इस बात की खुशी है कि उस साम्राज्य के प्रतिनिधि स्वल्प-कुमारों की तरह हमारे बीच में वाइकोल्ड मैल्डोन्स और जेम्स वॉशिंगटन



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मैजूद हैं जिन्होंने अन्तिम दिनों में <sup>द्वितीय</sup> ~~द्वितीय~~ <sup>द्वितीय</sup> मैदान और उत्साह के साथ काम किया है। आज से दिवसों बाद <sup>द्वितीय</sup> ~~द्वितीय~~ <sup>द्वितीय</sup> का प्रयत्न स्वतन्त्र होगा है और एसा ब्रिटेन के साथ ऐसा सम्बन्ध स्थापित होगा है जो बराबरी का है और जिससे दोनों देशों की जरूरतें हैं और दोनों का लाभ हो सकता है।

हम जानते हैं कि देश में इस स्वतंत्रता प्राप्ति से जो उत्साह, जो <sup>सुखी</sup> ~~सुखी~~ <sup>सुखी</sup> और जो उत्साह होता <sup>पाएँ</sup> ~~पाएँ <sup>पाएँ</sup> वह इसका बरबाद हो जाने के कारण फिरटिया हो गया है। एसा काम है कि जो एसाएँ साथ रह गया है उससे हम ऐसा सुख, सुव्यवस्थित, सुसंगठित और समुन्नत करें कि बिजुट्टे हुए प्रदेशों को फिर हमसे मिल जाना बहुत अधिक लाभ प्रद मायूम हो। हम आज कहते हैं कि हम अपने व्यवहार से, अपनी कार्यक्षमता से आपको फिर अपनी ओर वापस ला सकेंगे। पर जो ए गवर्नरी से नहीं हो सकता। जो ए गवर्नरी का कहीं भी अच्छा अन्त नहीं होता। वह एक चक्र है जिसका आदि अन्त कहीं नहीं है। हम यह उद्देश्य अपने सद्व्यवहार से पूरा कर सकते हैं। ऐसे लोग जो इस बरबाद के पक्षधर नहीं बने पर जिन्हें बालबाल उसका में पड़ गये हैं उनसे अग्रोप्य है कि वहां ही वह सहे रहें और जिस दिमाग और उत्साह से उन्होंने स्वराज्य प्राप्ति में काम किया है उसी से आज भी काम लेते रहें। जो नया शासन और नयी <sup>जमानों में</sup> ~~जमानों में <sup>जमानों में</sup> वहां काम हो रही है उसको हम अपनी आशीर्वाद <sup>और प्रोत्साहन</sup> ~~और प्रोत्साहन <sup>और प्रोत्साहन</sup> और आह्वान हैं कि वह अपने उस बड़े काम में जो आज वह शुरू करने जा रही है वह पूरी तरह कामयाब होवे। एसाएँ पूरा विश्वास है कि वह वहां के सभी रहनेवालों के साथ किया <sup>होई</sup> ~~होई <sup>होई</sup> फर्क बिना <sup>होई</sup> ~~होई <sup>होई</sup> एसाएँ और व्यापक <sup>करोगी</sup> ~~करोगी <sup>करोगी</sup> एसाही सहानुभूति से वहां के सब लोगों के साथ है ही। हम चाहते हैं कि वह~~~~~~~~~~~~



अपनी बधादारी और अपनी हिम्मा से अपनी जगह वहाँ हासिल  
और कायम कर लेंगे।

इस दिन हमें कुछ बातें मानी हैं मगर उससे भी  
बढ़कर अपनी जिम्मेदारियों को समझना है। हम मुजरतों को  
सूँ में और आइने की ओर अपनी आँखें फेंकें और ऐसा  
दृष्टिकोण बना दें जिसका हम अपना देखने रहे हैं। हमारा किला  
भी बिदेस के हाथों के हाथों में नहीं है और हम अभी  
रखते हैं कि कोई इससे देना हमारे हाथ में नहीं

हमारा इतिहास माना है नही। हमारे लक्ष्य हमारे कर्तव्य के इतिहास में एक  
और हमारी संस्कृति  
जिसका है कि हमें बाली  
मिलें हैं और (ह)

नहीं। हमारे लक्ष्य हमारे कर्तव्य के इतिहास में एक  
और हमारी संस्कृति  
जिसका है कि हमें बाली  
मिलें हैं और (ह)

अपने लक्ष्य या हमारा किला है। हमारा लक्ष्य, हमारी  
जान हमारे लक्ष्य की रही है। हमने दूसरों को  
जंगलों से - लोटे लोटे की है। या लोटे की भी क्यों  
न हो - कभी बाँधने की कोशिश नहीं की। हमने  
दूसरों को अपने हाथ लोटे के जंगल से भी उखाड़ा  
मजबूर मगर मुझ (और मुझ देश के लोग) से बाँध  
रखा है और वह बाँधन बर्तक है - संस्कृति का है और  
ज्ञान का है। हम अब भी उसी रास्ते पर चलते रहेंगे  
और हमारी एक ही इच्छा और अभिलाषा रहेगी।  
वह अभिलाषा यह होगी कि हम संसार में मुझ और  
शान्ति कायम करने में मदद पुँजा लेंगे और संसार के  
हाथों में लक्ष्य और आदित्य का वह अग्रक दृष्टिकोण  
दे लेंगे जिससे हमें आज आजादी तक पुँजाया है।  
हमारी जिम्मेदारी और संस्कृति में कुछ ऐसा है जिससे  
हमें समय के कपड़ों के बावजूद जिन्दा रहने की शक्ति  
दी है। अगर हम अपने आँखों को सामने रखते रहेंगे  
तो हम संसार की कड़ी लोका कर पावेंगे।



आज से हम का नूनी तरीके से अपने गांव के  
विचार करने हैं और इस देश के ज्ञान, पुरानी और  
समुदाय बनाने का सारा काम हमारे अपने आगम है जो  
स्वराज्य हमने हासिल किया है वह खेतीबारी पर आधारित  
आज हमने देश में रहने वाले सभी वर्ग, जाति और धर्मवाले  
लोगों में यह विश्वास पैदा नहीं किया कि वह यहां प्रयुक्त  
हैं - उनकी उन्नति और ताकती के रास्ते में कोई बाधा नहीं।  
शाम तक है - उनके धर्म और धर्मधर्म की पूरती  
आगामी है - उनकी भाषा और संस्कृति - जवान और कमजोर  
पर कोई आबाद नहीं। पुंजा तक है - आदिम जाति को  
और दूसरे पिछड़े हुए लोगों को उनकी उन्नति के लिए  
उल्लेख तक विशेष आयोग और मंचन होना  
देगा - खास मंचन होगी रहेगी जब तक वह सबों की  
बराबरी में न आजाये - अव्यवस्था बनने के संकट की  
तरह हम मूल गणक मजदूर और किसान और इससे  
हल प्रकाश के समझौते - महान करनेवाले किली प्रकाश  
से प्रोत्साहित नहीं होने पावेंगे - सभी लोगों के अपने  
विचारों के प्रकट और प्रचारित करने का - अपने  
स्वभावों की स्थापना का मौका और अधिकार है जब  
इस देश में सब के लिए ५० अन्न होने लगेगा  
और फिर धूम भी बढियां बहने लगेंगी - जब हमारे  
जवान लोग खेतों और कान्ठानों में हंसते हंसते कम  
किया करेंगे - जब हम को पड़े और पल्लवी में  
बोरेपू बांधों के साथ साथ हमारी युवतियां अपने भीले  
पुल आभायती रहेंगी - जब इस देश के मुल्की बरों पर  
और हंसते हुए चेहरों पर मूर्ख और लक्ष्मी जवनी  
किरणें चिरकायेंगे।

काम बहुत बड़ा है, बहुत मुश्किल है  
और सब लोगों की सहभागिता और सहयोग के बिना



यह पूरा हो नहीं सकता / देश के सभी लोगों से जुड़ना है कि वह इसमें पूरी सहभागिता करे। हम जानते हैं कि आज देश के ज़्यादा करे बिना-बाएँ चल रही हैं। बितने कम हैं जो संगठित रूप से अपने बिचारों का प्रचार करना और देश द्वारा उनको मंजूर करके उनके ही बिचारों में बिचार और हमारे सामाजिक जीवन को ठामना आते हैं। जहाँ एक ओर इन सब को अपने बिचारों के प्रचार का पूरा अधिकार होगा जाहिर है दूसरी ओर देश को यह अधिकार है कि उससे वह देश के प्रति सच्ची बंधावारी का दावा करे और उनका फर्ज है कि वह बंधावारी ने दें। हम सब को यह मानना होगा कि इस समय सब से अधिक जरूरत निर्माण और रचना की है, संघर्ष की नहीं, होस नाभीरी काम की है, बहल की नहीं। हम आशा करते हैं कि सभी मिल जुमकर इस बड़े काम को पूरा करेंगे। हम आते हैं कि हमारे किसान ज्यादा से ज्यादा अन्न पैदा करें - कारखानों के मजदूर ज्यादा से ज्यादा माल पैदा करें - व्यवसायी और व्यापारी लोग अपनी बुद्धि और चातुरी जनता जनार्दन की सेवा में लगावें और देश सब के लिये प्रगल्भ, व्यवस्थित और पुरवी जीवन, शिक्षा का साधन, सामान मुला देवे और सब के लिये आलोकनति, नदी का पानी साफ़ कर दे।

जनता और जनता के प्रतिनिधियों के अलावे एक और वर्ग है जिसकी जिम्मेदारी भी कम नहीं है। वह है हमारे देश की सेना और (सकार) मुलाजिमों का। जो लोग आज तक हम पर और जन साधारण पर दुरुस्तर करते रहे हैं उनको अब से सेवक और खरिद का नाम पहनना होगा। हमारे फौज ने अपनी बहादुरी और युद्ध कौशल का सबूत





लड़ाइयों के बाद भी आज पहले जैसी ज़मीनों की लों  
रखी है।

विदेशों में प्रवासी मालवाणिज्यों को जादे व  
अंग्रेजी ~~मालवाणिज्य~~ में बसे हैं या और जगहों में हम  
विशवास दिलावा चाहते हैं कि उनके मुल दुःख में हमारी  
गहरी दिलचस्पी है और उनके लिये हमारे ~~दिनों में~~ ~~सहायता~~  
सहायता ~~देना चाहते हैं।~~

देश में जो अल्प संख्यक लोग हैं उनके  
हम विशवास दिलावा चाहते हैं कि उनके साथ व्याप  
और इन्साफ का वतनि होगा और उनके अधिकार  
(हक) सुरक्षित रहेंगे।

विधान बनाने का काम जो बारी है उसको  
जल्द से जल्द पूरा करना चाहिये ताकि हम अपने बगाने  
विधान के मान हम रहने लग जायें और काम शुरू  
कर दें। इस विधान को बनाने में सब की  
सहायता आवश्यक है। ऐसा मुन्द (मैं) बनाना है  
जिसमें जनमत प्रख्याप रहे और ~~सबको~~ जनता की  
उन्नति उद्देश्य रहे और सब को इस बात का  
निश्वास रहे कि ~~वह~~ <sup>अब</sup> धर्म, संस्कृति, भाषा, विचार  
सब को सुरक्षित रख लयने हैं और उसी  
नकी के लिये में किसी किसम की बाधा नहीं  
हो सकती। इसके बनाने में विदेशों के अनुभव,  
नमुना, और विधान (कायदे) से हम लाभ उठावेंगे,  
अपनी संस्कृति और परिस्थिति से जो कुछ मिल  
सकता है उसे लेंगे और जहां जरूरत होगी आज  
की प्रचलित सीमाओं को, जादे व शासन पद्धति का  
है। अथवा सूबाओं की, प्रांत का नयी सीमाएं  
बनावेंगे। हमारे उद्देश्य है कि हम ऐसा विधान



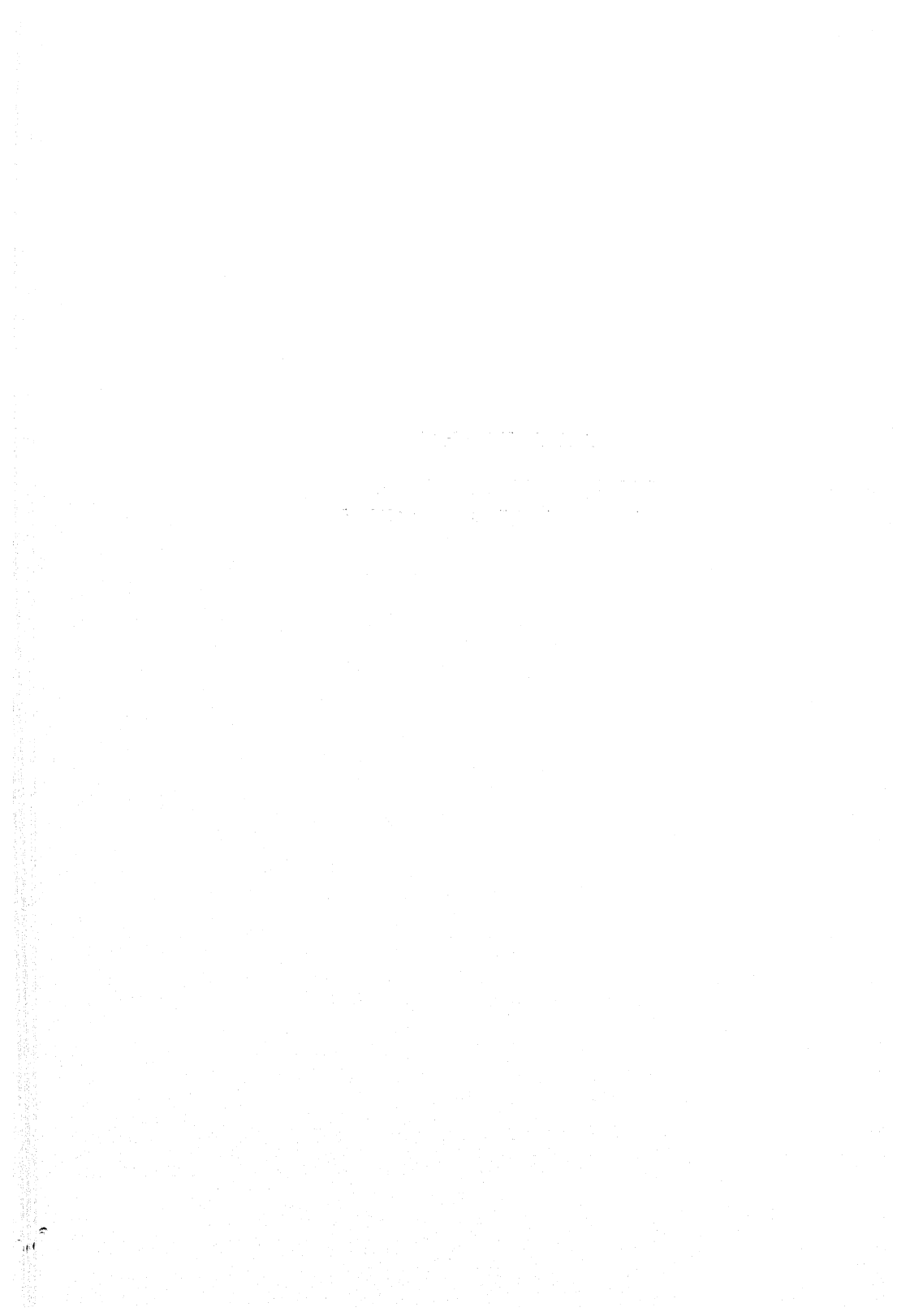
जगहें जिनमें जनमत की प्रत्यागता रहे और जिनमें व्यक्ति को केवल स्वतंत्रता (आजादी) ही न मिले पर वह स्वतंत्रता (आजादी) लोकहित (जनकली वसूरी) का साधन (जड़िया) बन जाये।

आज तक हम देश के मोटा देश को आजाद करने के लिये संकल्प लिया करते थे और हम कार्य सिद्धि के लिये त्याग और बलिदान भी प्रतिया किया करते थे। आज दूसरे प्रकार के संकल्प और प्रतिज्ञा का दिन आया है। हममें से कोई ऐसा न हममें कि त्याग का दिन कीमत चुका और मोटा का समय आजाया। जो देश को उन्नत करने का महान कार्य हमारे सामने है उसमें आज तक हमने जितनी त्याग की आवश्यकता दिखलाई है उससे कहीं अधिक बड़े प्रतिज्ञा के साथ बलवत्ता, त्याग और कार्य पटुता दिखलाने का समय है। इसलिये एकबार फिर भी मान भी सेवा में लगा जाने का संकल्प करना है और ईश्वर से प्रार्थना करनी है कि जिस तरह से उसने हमारे पहले के संकल्प को पूरा किया उसी तरह से वह हमको भी पूरा करे।



PART EIGHT

FUNCTIONS OF THE  
CONSTITUENT ASSEMBLY



## COMMITTEE ON FUNCTIONS OF THE CONSTITUENT ASSEMBLY

August 1947

*[Under the Indian Independence Act, 1947, the Constituent Assembly assumed on August 15, 1947, full powers for the governance of India; it was not only to be the constitution-making body, but also to exercise the powers of the Federal Legislature under the Government of India Act, 1935 as adapted. On August 20, during a discussion on certain incidents connected with flag hoisting ceremonies on Independence Day in various parts of the country, Nehru suggested that the President might appoint a small committee to go into the question of the status and functions of the Constituent Assembly. The suggestion found favour with the House and on the same day the President announced the formation of a committee to consider and report on the functions of the Constituent Assembly under the Indian Independence Act. Besides the Chairman, G. V. Mavalankar, the committee consisted of Hussain Imam, Purushottamdas Tandon, Ambedkar, Alladi Krishnaswami Ayyar, Gopalaswami Ayyangar and B. L. Mitter. On August 22, 1947, B. N. Rau suggested in a note that the constituent and legislative functions of the Constituent Assembly should be distinguished and separate times set out for them. Since some doubts had also arisen in regard to the position of the Legislative Assembly Department, Nehru clarified the position in a note to the President of the Constituent Assembly on August 23, 1947. The committee met on August 22, 23 and 25 and submitted its report to the President on August 25. The report came up for discussion before the House on August 29, 1947. The texts of the relevant documents are reproduced below.]*

### (I) NOTE BY THE CONSTITUTIONAL ADVISER

August 22, 1947

#### SECTION 8 OF THE INDIAN INDEPENDENCE ACT

1. See sub-section (1) and proviso (e) to sub-section (2): The Constituent Assembly is to exercise in the first instance—(a) the constitution-making powers of the Dominion Legislature, and (b) the powers of the Federal

legislature or Indian legislature under the Government of India Act, 1935 as adapted. It should be noted that the latter do not include constitution-making which falls outside all the Lists. Therefore (a) and (b) can and, for convenience, should be distinguished.

2. The powers being distinguishable, there is no reason why separate times should not be set out for (a) and (b). In fact, convenience dictates such a course.

3. *See proviso to section 19 (3) of the Indian Independence Act*: The Constituent Assembly has, and always has had, power to provide for the extent to which representatives of Indian States take part in the Assembly. Therefore the Constituent Assembly can, if it so chooses, allow them to participate both in (a) and (b), or in (a) and a part of (b), or only in (a) by making appropriate rules. Expediency suggests that they should be allowed to participate both in (a) and (b) like any other representatives.

4. There was a recent revision of the rules of the Constituent Assembly. These relate only to (a). When the Constituent Assembly sits for (b), it is, for the time being, subject to Section 38 of the Act of 1935 as adapted and therefore, under sub-section (3) of that Section to the rules of procedure and standing orders in force in the Legislative Assembly immediately before August 15, with such adaptations and modifications as the President may make. These rules and standing orders will have to be examined in detail, to see what adaptations and modifications are necessary or desirable. In particular, should there be a rule that each member should make and subscribe an oath in a prescribed form? This is common in all Legislatures, but has been omitted in the adaptation of Section 24 of the Act of 1935.

## (II) NEHRU'S NOTE TO THE PRESIDENT OF THE CONSTITUENT ASSEMBLY August 23, 1947

Recent changes and developments have put an end to the old Legislative Assembly and the Constituent Assembly will now function as the Legislative Assembly for India. The Legislative Assembly Department is for the present rather headless till such time as the Constituent Assembly functions as a Legislative Assembly. Probably, the correct view is that the President of the Constituent Assembly becomes automatically the head of the Legislative Assembly Department.

In any event, it is clear that the Legislative Assembly Department should function from now onwards under the directions of the President of the Constituent Assembly. The Constituent Assembly has recently appointed a sub-committee to consider when and how the C. A. should function as a Legislative Assembly. This sub-committee will report soon and probably before the C. A. session ends some final decisions will be taken by the Constituent Assembly.

Meanwhile, as I have said above, the Legislative Assembly Department should function directly under the President of the Constituent Assembly. This does not mean that it should be merged into the C. A. Secretariat. It should continue as a separate entity. It should, however, fully co-operate in any work of the Constituent Assembly which is allotted to it or any members of its staff by the President of the Constituent Assembly.

### (III) REPORT OF THE COMMITTEE

August 25, 1947

FROM

Shri G. V. Mavalankar,  
Chairman,

Committee on the Functions of the Constituent Assembly under the Indian Independence Act.

TO

The President,  
Constituent Assembly of India.

SIR,

On behalf of the members of the committee appointed by you on the 20th of August 1947 to consider and report on certain matters connected with the future working of the Constituent Assembly, I beg to submit this report.

#### I. Preliminary :

2. At our first meeting on Friday the 22nd, I was elected Chairman. The committee met also on the 23rd and the 25th.

3. Our terms of reference are :

- (1) What are the precise functions of the Constituent Assembly under the Indian Independence Act?
- (2) Is it possible to distinguish between the business of the Constituent Assembly as a constitution-making body and its other business and can the Constituent Assembly set apart certain days or periods solely for the former?
- (3) Should the members representing the Indian States in the Constituent Assembly be given the right to take part in proceedings which do not relate to constitution-making or to the subjects in respect of which they have acceded ?
- (4) What new Rules or Standing Orders, if any, and what amendments, if any, in the existing Rules or Standing Orders should be made by the Constituent Assembly or its President?

We proceed to state our views on these terms in the order mentioned.

*II. First term of reference :*

4. The business to be transacted by the Constituent Assembly falls under two categories :

- (a) To continue and complete the work of constitution-making which commenced on the 9th December, 1946, and
- (b) To function as the Dominion Legislature until a Legislature under the new constitution comes into being.

*III. Second term of reference :*

5. It is not only possible but necessary for the proper functioning of the Constituent Assembly in its two capacities that its business as a constitution-making body should be clearly distinguished from its normal business as the Dominion Legislature. We consider that for the purpose of avoiding complications and confusion, different days, or separate sittings on the same day, should be set apart for the two kinds of business.

*IV. Third term of reference :*

6. We agree that, as implied in the wording of this term of reference, the members of the Assembly representing the Indian States are entitled to take part in the proceedings of the Assembly on all days set apart for the business of constitution-making. They further have the right on days set apart for the functioning of the Assembly as the Dominion Legislature to participate in business relating to subjects in respect of which the States have acceded to the Dominion. Though it is competent for the Constituent Assembly to deny or limit their participation in business relating to subjects in respect of which the States have not acceded we would recommend that no ban or restriction be placed by rule on their participation in such business also.

*V. Fourth term of reference :*

7. So far as constitution-making is concerned, the existing Rules of Procedure and Standing Orders made by the Constituent Assembly and its President are adequate and only such amendments need be made therein from time to time as may be considered necessary in the light of experience. As regards the functioning of the Constituent Assembly as the Dominion Legislature, under section 8(2) of the Indian Independence Act, the relevant provisions of the Government of India Act as adapted and the Rules and Standing Orders of the Indian Legislative Assembly have generally to be followed. It will, however, be necessary to make modifications and adaptations in these Rules and Standing Orders in respect of matters common to both the classes of business to be transacted by the Assembly. We have not been able, within the time at our disposal, to attempt a detailed examination of these Rules and Standing Orders with a view to make suggestions as regards the modifications, adaptations and additions that may be necessary. We would suggest that necessary modifications, adaptations and additions be made under the orders of the President.

8. We desire to refer to three matters of importance which, besides being

relevant to the main issue remitted to us for consideration, have a bearing on the question of the need for the making by the Constituent Assembly or its President of new Rules or Standing Orders and the amendment of existing Rules or Standing Orders.

9. The provisions for the election of a Speaker in Section 22 of the Government of India Act, 1935 have been omitted. This read together with the other modifications carried out in that Act show that the President of the Constituent Assembly is the person to preside over it when functioning as the Dominion Legislature also, unless other provision is made in the Rules of Procedure of the Constituent Assembly itself for the election of an officer for the purpose of presiding over the Assembly when transacting ordinary legislative business. It has to be remembered that though transacting two kinds of business, the Assembly is one and can have only one President who is the supreme head of it both on its deliberative side and on its administrative side. We would, however, point out that it would be constitutionally inappropriate for the person presiding over the Constituent Assembly when functioning as the Dominion Legislature being also a Minister of the Dominion Government. It is obviously desirable that steps should be taken for avoiding this anomaly. We would suggest that for this purpose the following alternatives might be considered:

- (a) The President of the Constituent Assembly should be a person whose whole time is given to the work of the Assembly both when engaged on constitution-making and when transacting business of the Dominion Legislature.
- (b) If the President of the Constituent Assembly is a Minister, provision may be made in the Rules of the Constituent Assembly for the election of an officer to preside over the deliberations of the Assembly when functioning as the Dominion Legislature.

10. Under the Government of India Act as adapted, the power of summoning and proroguing the Dominion Legislature vests in the Governor-General. We consider that, consistently with the powers which of right belong to the Constituent Assembly and with the Rules already made by it and with a view to secure proper co-ordination of the work of the Assembly in its two spheres, this power of summoning that Assembly for functioning as the Dominion Legislature and proroguing it should also vest only in the President. A new Rule to this effect may be added to the Constituent Assembly Rules of Procedure and a further adaptation of the relevant section of the Government of India Act may be made to bring it into conformity with this new Rule.

11. At present five members of the Dominion Government have no seats in the Constituent Assembly. These Ministers have the right to participate in the business of the Constituent Assembly when functioning as the Dominion Legislature, though they will not have the right to vote. They will, however, not have the right even to participate in the work of

the Constituent Assembly when it transacts business connected with constitution-making. We however, recommend that such Ministers may by a suitable addition to the Rules of the Constituent Assembly be given the right to attend and participate in its work of constitution-making, though until they become members of the Constituent Assembly they will not have any right to vote.

Your sincerely,  
G. V. MAVALANKAR,  
*Chairman.*



PART NINE  
ENTRY OF INDIAN STATES



# SETTING UP OF THE STATES NEGOTIATING COMMITTEE BY THE CHAMBER OF PRINCES AND THE STATES COMMITTEE BY THE CONSTITUENT ASSEMBLY

November, 1946—January, 1947

*[The Cabinet Mission's Statement of May 16, 1946 (see Document No. 48) had provided for the Indian States in the final Constituent Assembly appropriate representation which would not, on the basis of the calculation of population adopted for the rest of India, exceed 93 members; but the method of selection was left to be determined by consultation. The Mission envisaged the setting up of a Negotiating Committee by the States to represent them in the preliminary stage of constitution-making. The Congress Working Committee in its Resolution of May 24 (see Document No. 50) emphatically held that the Constituent Assembly could not be formed by entirely disparate elements and the manner of selecting States' representatives to the Constituent Assembly must approximate as closely as possible to the method adopted in the provinces. In an explanatory statement (see Document No. 51) the Cabinet Mission, however, reaffirmed on May 25 that the question of how the States' representatives should be appointed to the Constituent Assembly was not a matter for decision by the Mission and was clearly one to be discussed with the States.]*

*The Standing Committee of the Chamber of Princes in its Resolution of June 10 (see Document No. 55) expressed the view that the Cabinet Mission Plan provided a fair basis of negotiation. Subsequently, it set up a committee to negotiate the States' entry into the Constituent Assembly. The personnel of this Negotiating Committee was, however, announced by the Chamber of Princes only in its Resolution of November 21. On December 21 a resolution was moved by K. M. Munshi in the Constituent Assembly for the appointment of a corresponding committee of the Assembly to confer with the Negotiating Committee set up by the Chamber of Princes. Even before the States Committee of the Constituent Assembly was set up, N. Gopalaswami Ayyangar had prepared some preliminary notes on the subject of representation of the princely States. On January 22, 1947, the Constituent Assembly adopted another resolution with a view to vest in it the additional power to confer with such persons as it might deem fit for the purpose of examining the*

*special problems of Bhutan and Sikkim. The texts of the resolutions setting up the two committees and the resolution extending the scope of the States Committee and Gopalaswami Ayyangar's notes are reproduced below.]*

(I) LETTER FROM GOPALASWAMI AYYANGAR TO NEHRU  
November 18, 1946

HEREWITH THE INFORMATION regarding representation of States in the Constituent Assembly, which I promised on Saturday to send you.

The 93 seats—the maximum number allotted for the States in the final Constituent Assembly by the Cabinet Delegation—are distributed amongst the States in the tables attached.\* I have worked on the 17 Divisions of States mentioned in the table given in Part II, Schedule I of the Government of India Act, 1935. Barring the States, about 20 in number, which on account of their population will be entitled to representation in their individual right in the Constituent Assembly, the table in the Government of India Act Schedule gives as good a grouping of the other States as can be evolved for purposes of such representation at this juncture. No doubt alternative grouping for this purpose can be proposed, but it is doubtful whether such alternatives will meet with general acceptance. You will notice that I have given individual representation to all States with a population of not less than .75 million each. On this principle Bhopal will get a seat in its own right.

On the question of the method by which the representatives of the States should be chosen, the general principle should of course be that, as the Constituent Assembly is a body of representatives of the people it is the latter that should choose their representatives either through direct or through indirect election. The majority of the States entitled to individual representation possess legislatures of some sort. Some of the smaller States also have representative bodies of some kind or other. Wherever such bodies are available they might be used as electorates for the Constituent Assembly. Where such statutory representative bodies do not exist non-statutory representative bodies might be created *ad hoc* for this purpose. The details for this will have to be worked out in consultation with the State Governments and the States' Peoples Conference. I think the ruling principle should be that all the representatives of a State should be returned by election. It looks as if several Rulers are willing to agree to a proportion of 50:50 but this is not enough. Some of them insist that the entire body of the representatives from their States should be nominated by them. Others have said that they are prepared only to consult their legislature before making up their list.

\*Not reproduced.

An attitude of this kind, while it indicates a recognition of the need for not ignoring the people of the State in this connection, is evidence of an inadequate appreciation of the big change in outlook that underlies the convoking of a Constituent Assembly for constitution-making. The authority that such an assembly has for settling the constitution of the Union and the Units is derived from the people. The Assembly should, therefore, essentially be a body consisting of representatives chosen by the people. It would undoubtedly be an advantage that amongst the persons so chosen there should be a considerable body of individuals who have been closely associated with the existing Governments at the Centre and in the Units both in the legislatures and in the executives.

As regards provinces, the provincial legislatures have returned persons not in permanent service who fall within these categories. In the case of the Indian States, however, the number of non-officials who have been intimately associated with the executives and legislatures is extremely small and it would perhaps be helpful if in the instructions to be issued for choosing representatives of Indian States provision is made for the coming in of persons who have run the administration in those States. Such instructions may, among other things, direct that the election shall be by the method of proportional representation by the single transferable vote. This, it seems to me, will enable the Prime Ministers of all important States which are entitled to more than one seat to get elected. They should be able to score the quota and it may be argued that Prime Ministers who are unable to score even the quota in a multiple member constituency cannot in reason claim to represent the people of the State.

It is possible, however, that both Rulers and their Prime Ministers will strongly oppose this proposal. A compromise that could be considered for an agreed solution might be as follows:—

- (a) that where a State or group is entitled to only one seat it should be filled by election, and
- (b) that where individual States or groups are entitled to more than one seat the Prime Minister, or Dewan, or a Prime Minister or Dewan, shall be one of the persons returned by the electorate concerned, such return being ensured by a directive issued to the electorate by the Central executive of the States Peoples Conference, or the regional executive or by some other analogous organisation (this procedure will be in keeping with what was done in British India by the High Commands of the Congress and the Muslim League.)

Practically all the legislatures in the Indian States contain a substantial element of members nominated by the Ruler. I should be prepared in the present circumstances to agree that the electorate in each of those legislatures need not be confined to elected members alone and that the electorate might consist of all members of the legislature. This concession is worth making for the purpose of reaching an agreed solution.

## (II) A NOTE BY GOPALASWAMI AYYANGAR

November, 1946

## I

In the White Paper that was presented to Parliament, the first mention of the Negotiating Committee is to be found in the last sentence of paragraph 19(ii) of the Cabinet Mission's statement dated 16th of May. The whole paragraph is in these terms :

It is the intention that the States would be given in the final Constituent Assembly appropriate representation which would not, on the basis of the calculation of population adopted for British India, exceed 93 : but the method of selection will have to be determined by consultation. The States would in the preliminary stage be represented by a Negotiating Committee. What exactly is meant by the preliminary stage is not clear. In certain quarters it has been assumed that the preliminary stage is the same thing as the preliminary meeting of the Constituent Assembly referred to in paragraph 19(iv). This is by no means self-evident.

That at the stage of negotiations a Negotiating Committee will represent the Indian States is not the same thing as saying that the States come into the Constituent Assembly at that stage and that in that Assembly the members of the Negotiating Committee will be their sole representatives. The business contemplated for the preliminary meeting under the Cabinet Mission's plan does not envisage any matters in respect of which the States could be said to be entitled to a voice. This interpretation of the Cabinet Mission's own scheme should not be construed as my considered view that the States should not come into the Constituent Assembly except at the final meeting. On the other hand, I have throughout been of the opinion that the consultation as regards the method of selection of States' representatives should be completed sufficiently early to enable the 93 representatives allotted to the States coming into the Constituent Assembly even at its preliminary meeting.

From paragraph 4 of the Nawab of Bhopal's letter to the Viceroy dated 19th June, 1946, it appears that the Viceroy extended an invitation to the Chancellor of the Chamber of Princes to set up a Negotiating Committee. The Viceroy's letter containing this invitation is not amongst the published papers. The Nawab's letter takes it for granted that the Negotiating Committee set up for the States should negotiate with a corresponding committee which was expected to be set up by the representatives of British India on the Constituent Assembly. He then went on to say that the result of the negotiations between the two committees was to be considered by the Standing Committee of Princes and the Committee of Ministers and the Constitutional Advisory Committee, whose recommendations would thereafter be placed before a general conference of Rulers and representatives of States. He added that the decision on the question whether the States should or should

not join the Constituent Assembly would be taken by that conference and would depend on the result of the forthcoming negotiations. It is obvious from this that the Nawab's understanding of the functioning of the Negotiating Committee was that the negotiations would be carried on outside the Constituent Assembly and that only after considering the results of the negotiations would the States decide whether they should come into the Constituent Assembly at all. In the face of this, it is somewhat extraordinary that the claim should now be put forward that the members of the States Negotiating Committee should sit as of right as members of the Constituent Assembly even at its preliminary meeting.

The Viceroy's reply dated 29th June to the Nawab of Bhopal only confirms this view. In it he says he has merely taken note of the personnel selected by the 'States' to represent them on the Negotiating Committee. He goes on to say "I will inform Your Highness as soon as I am in a position to do so of the time and place of the Committee's meeting. The composition of the corresponding committee from British India cannot, I think, be determined in advance of the preliminary session of the Constituent Assembly." The implication obviously is that the States Negotiating Committee should commence to function only after a committee to treat with them had been set up by the Constituent Assembly at its first meeting, and therefore, that first meeting could not include any States representatives.

The debate on the Cabinet Mission's work in India took place in the House of Lords and the House of Commons in July 1946. Lord Pethick-Lawrence in the House of Lords and Sir Stafford Cripps in the House of Commons assumed that the Negotiating Committee for the States had been set up. What had happened was that certain names had been sent up by the Chancellor to the Crown Representative and the latter had merely noted that fact. It is significant that even today the representatives of the States who are assembled in Delhi are speaking of the list of names for the Negotiating Committee being published only after the meeting of the Standing Committee of Princes, which will conclude on the 22nd instant. Lord Pethick-Lawrence appears to have spoken loosely in the House of Lords. He spoke of a Negotiating Committee having been set up to arrange for the participating of the States in the constitution-making body. This is not entirely consistent with his own statement later in his speech to the following effect :

As to the States, they need have no anxiety since it is for them to decide freely to come in or not, as they choose. It is for that purpose that they have set up a Negotiating Committee and I am sure that that Committee will have the wisdom to work out an acceptable basis for their co-operation in the Assembly.

Apart from the internal conflict in his own speech, I rather think that in neither of the two statements did he correctly interpret the terms of

the Mission's statement of May 16th. That statement gives no option to any State to decide whether it would come into the Union or not and made no provision for the members of the Negotiating Committee functioning as members of the Constituent Assembly and participating in the work of that constitution-making body. The representatives of the States who were intended to engage in such participation were the 93 persons, only the method of whose selection was to be determined by consultation.

While the Viceroy and the Nawab of Bhopal in their correspondence with each other assumed that the negotiations were to be conducted between the Negotiating Committee set up for the States and a corresponding committee to be set up by the Constituent Assembly after it met, and while the Secretary of State talked of the Negotiating Committee actually participating in the constitution-making body, Sir Stafford Cripps in the House of Commons spoke only of negotiations between the Negotiating Committee and the major British Indian parties. His actual words were :

There will of course have to be close negotiations between the Negotiating Committee which the States have set up and the major British Indian parties both as to the representation of the States in the Constituent Assembly and as to their ultimate position in the Union.

It is not a fair inference from this that the negotiations between the Negotiating Committee and the major British Indian parties were to be conducted inside the Constituent Assembly of which the members of the Negotiating Committee were to be regarded as members in their own right.

## II

An early press account of the discussions in the Constitutional Advisory Committee of the Chamber of Princes on the 19th instant gave the following list of the functions which, it was understood, were to be assigned to the States Negotiating Committee :

- (1) Method of selecting the 93 States' representatives who will take part in the Constituent Assembly in its final stages.
- (2) Continuance of the monarchical form of Government in the States.
- (3) Financial relations of the future all-India Union with the States.
- (4) Criteria for adherence to the Union.
- (5) The part that the Negotiating Committee should take in the election of the Chairman of the Constituent Assembly and in framing its rules of procedure and other major issues affecting the Indian States.

I understand that item (5) was omitted in the later discussion of the Constitutional Advisory Committee. Item (4) probably refers to the determination of the size of a States-Unit in the future federation. This and item (3) are really matters for discussion in the Constituent Assembly as a whole after the representatives of the States have come into it. There is at present no idea of interfering with the continuance of the monarchical form of Government in the States. It need not be a matter for negotiation at all at the present stage. Item (2), therefore, has to be dropped out. Item (1)



is thus the really important issue which the Negotiating Committee has to decide immediately.

The personnel of the States Negotiating Committee has been announced in the papers this morning with the authority, presumably, of the Chamber of Princes. It has a strength of 10, of whom three are Rulers and one a Prince; four are Prime Ministers of States, the remaining two being the Constitutional Adviser and the Secretary to the Chancellor of Chamber of Princes. The three Rulers and Prince belong to their respective States; the four Prime Ministers do not belong to the States where they hold office and three of them come from British India as also the Constitutional Adviser and Secretary. It has been stated further that this committee "will meet any representative committee which may be set up by the British India portion of the Constituent Assembly as contemplated and declared by His Majesty's Government in Parliament, in order to negotiate the terms of States' participation in the final Constituent Assembly and as to their ultimate position in the proposed all-India Union. The members of the States Negotiating Committee will also be available to serve on such other committees as may be set up by the Constituent Assembly to consider questions which, in the opinion of the States Negotiating Committee may also concern the States." For the all-comprehensive and the all-important functions proposed to be assigned in general terms to this Negotiating Committee, it can hardly be said that its representative character is such that whatever it agrees to will be treated as binding even by all Rulers or Governments of Indian States, much less by the people of the States.

The first meeting of the Constituent Assembly consisting, as it will, of elected representatives of the people of British India cannot agree to set up a committee of its own to negotiate matters concerning States with any committee which does not include representatives of the people of the States. I take it that the Crown Representative or the Chancellor or the Chamber of Princes will write to the Chairman of the Constituent Assembly requesting that the latter might set up a committee of its own for negotiating with the States Negotiating Committee. It will be for the Steering Committee of the Constituent Assembly to decide whether a motion should be moved by a member of the Constituent Assembly for the appointment of such a committee. Before the Steering Committee takes its decision in this regard, it will be desirable that it should ascertain from the Crown Representative or the Chancellor whether he will arrange that the States Negotiating Committee will be reconstituted so as to include representatives of the States people, nominated primarily by the President of the States Peoples' Conference and that such representatives should at least be equal in number to the Rulers and Ministers nominated to the committee. It might be made clear that, unless this course was agreed to, the Steering Committee would not place the motion for the appointment of a corresponding committee before the Constituent Assembly.

If preliminary pourparlers indicate that a deadlock would block progress in case the Steering Committee took this stand, it might consider one of the following alternative courses :

- (1) A motion may be made for the appointment of a committee by the Constituent Assembly with a directive to such committee that it should negotiate with the States Negotiating Committee only after it had been enlarged or reconstituted on the lines indicated in the above paragraph.
- (2) A motion may be made to appoint a committee of the Constituent Assembly, which besides members of the Assembly will include the Rulers and Ministers already named by the Crown Representative or Chancellor and will co-opt a specified number of representatives of the people of the States nominated primarily by the President of the States' Peoples Conference. In this case there will be only one committee, that committee being a committee of the Constituent Assembly, in which, by authority derived from the Constituent Assembly, representatives of the Government and people of the States will be included.
- (3) A motion may be made for the appointment of a committee of the Constituent Assembly whose strength shall be 12 (2 more than that of the committee already appointed by the Crown Representative or Chancellor) and which shall consist of 6 members of the British India portion of the Assembly and 6 representatives of the States Peoples recommended by the President of the States' Peoples Conference.
- (4) Should there be any insuperable difficulty, whether of substance or procedure, in including in the committee of the Constituent Assembly persons who are not members of it, the personnel of the committee might be confined to such members of the Assembly as have participated in the work of the States' Peoples Conference. It should be possible to find such men. This alternative should however be one of last resort.

The method of election of the 93 representatives of Indian States in the Constituent Assembly may be allowed to be *finally* decided in one of these ways. The decision, when it is made, should be implemented without having to go either before the Constituent Assembly as a whole or before any general conference of Rulers and Ministers of States for approval ; so that the 93 States' representatives might take their places at least from the commencement of the second session of the Constituent Assembly.

Whether, pending the coming into the Constituent Assembly of the 93 representatives of States, it is necessary to make arrangements for providing for States' representation in committees set up by the Constituent Assembly at its first meeting is a matter for decision by the Constituent Assembly itself. Such representation can be provided for only by co-option and

States representatives, co-opted on a particular committee, should not be confined to the members of the States Negotiating Committee nominated by the Standing Committee of Princes, but might include other Ministers or States Peoples representatives whose presence on such committees will be of real value. Such co-option pre-supposes the acceptance of my interpretation of the Cabinet Mission's statement of May 16th, namely, that no State can claim the option of not acceding to the Union and this should be made perfectly clear.

In the Cabinet Mission's memorandum on States' Treaties and Paramountcy dated 22nd May, 1946, reference is made to the conducting of certain negotiations with British India and the Indian States during the "interim" period. Para 4 refers to negotiations in regard to the future regulation of matters of common concern, especially in the economic and financial field. Where such matters have to be settled by negotiation, the negotiation should be between individual States and British India. No Negotiating Committee such as the one now appointed by the Chamber of Princes could claim to conduct negotiations on behalf of all the States in such a connection. Para 5 of the same memorandum refers to the negotiations between the States and British India in regard to the future political relationship between the two. Of the two alternatives there suggested for this political relationship, the first, namely, a federal arrangement, is a matter for being settled in the Constituent Assembly itself. The second, namely, "a particular political arrangement other than federal", is a relationship which each individual State, if it cannot enter into a full federal relationship, must forge for itself with the Federal Government would also be very appropriately discussed in the Constituent Assembly. Negotiations in connection with these political relationships need, therefore, not be within the purview of the States Negotiating Committee which is now contemplated.

(III) LETTER FROM THE NAWAB OF BHOPAL TO H. V. R. IENGAR  
SECRETARY, CONSTITUENT ASSEMBLY  
November 27, 1946

I acknowledge with thanks your letter No. C.A. 17-Gen/46, dated 25th November, 1946, which was received by me this morning enquiring whether the States Negotiating Committee would wish to attend the preliminary meeting of the Constituent Assembly which is due to begin on the 9th December, 1946. Before the receipt of your letter, this question was considered by the Standing Committee of Princes, the Committee of Ministers and the Constitutional Advisory Committee, and the decision unanimously taken is embodied in the Resolution of the Standing Committee, a copy of which is enclosed.

2. In the light of the Resolution, it is considered unnecessary that the members of the Negotiating Committee appointed by the States should

attend the preliminary meeting of the Constituent Assembly.

3. It is understood, however, that the Negotiating Committee of the States will be glad to meet any representative committee which may be set up by the British India portion of the Constituent Assembly as contemplated and declared by His Majesty's Government in Parliament in order to negotiate terms of the States participating in the final Constituent Assembly and as to their ultimate position in the proposed all-India Union. The members of the States Negotiating Committee will also be available to serve on such other committees as may be set up by the Constituent Assembly to consider questions which, in the opinion of the States Negotiating Committee may also concern the States.

4. I hope to be in Delhi on the 9th December, 1946 and have also invited other members representing the States to be present for consultation and discussion amongst ourselves and should my Negotiating Committee desire to be represented on any of the committees and sub-committees that may be appointed by the Constituent Assembly in their preliminary session, I shall be able to inform as soon as possible, after the list of the committees, that may be appointed by the Constituent Assembly, and their functions have been communicated to me.

#### ENCLOSURE

#### RESOLUTION OF THE STANDING COMMITTEE OF THE CHAMBER OF PRINCES November 21, 1946.

The personnel of the States Negotiating Committee which was set up in June last in response to His Excellency the Viceroy's invitation in accordance with the Cabinet Mission's statement of the 16th May, 1946, consists of the following :

- (1) His Highness the Nawab of Bhopal, Chancellor, Chamber of Princes ;
- (2) His Highness the Maharajadhiraja of Patiala, Pro-Chancellor, Chamber of Princes ;
- (3) His Highness the Maharaja Jamsaheb of Nawanagar ;
- (4) Sir C. P. Ramaswami Aiyar ;
- (5) Sir Sultan Ahmed ;
- (6) Sir Mirza M. Ismail ;
- (7) Sardar D. K. Sen ;
- (8) Sir A. Ramaswami Mudaliar ;
- (9) Sardar K. M. Panikkar ;
- (10) Maharaj Virbhadra Singhje ;
- (11) Vacant (due to the demise of Sir Manubhai Mehta) to be filled shortly.

*Secretary* : Sardar Mir Maqbul Mahmood.

This committee will meet any representative committee which may be set up by the British India portion of the Constituent Assembly as contemplated and declared by His Majesty's Government in Parliament in order to negotiate the terms of the States participation in the final Constituent Assembly and as to their ultimate position in the proposed All India Union. The Members of the States Negotiating Committee will also be available to serve on such other committees as may be set up by the Constituent Assembly to consider questions which, in the opinion of the States Negotiating Committee may also concern the States.

(IV) CONSTITUENT ASSEMBLY RESOLUTION SETTING UP  
THE STATES COMMITTEE  
December 21, 1946

This Assembly resolves that the following members, namely :

- (1) Maulana Abul Kalam Azad,
- (2) The Hon'ble Pandit Jawaharlal Nehru,
- (3) The Hon'ble Sardar Vallabhbhai Patel,
- (4) Dr. B. Pattabhi Sitaramayya,
- (5) Mr. Shankarrao Deo, and
- (6) The Hon'ble Sir N. Gopalaswami Ayyangar,

do constitute a committee to confer with the Negotiating Committee set up by the Chamber of Princes and with other representatives of Indian States for the purpose of—

- (a) fixing the distribution of the seats in the Assembly not exceeding 93 in number which, in the Cabinet Mission's statement of 16th May, 1946, are reserved for Indian States, and

- (b) fixing the method by which the representatives of the States should be returned to this Assembly

and thereafter to report to the Constituent Assembly the result of such negotiation.

The Assembly further resolves that not more than three other members may be added to the committee later and that they be elected by the Assembly at such time and in such manner as the President may direct.

(V) CONSTITUENT ASSEMBLY RESOLUTION VESTING IN THE STATES  
COMMITTEE ADDITIONAL POWER TO CONFER WITH THE  
SIKKIM AND BHUTAN AUTHORITIES  
January 22, 1947

This Assembly resolves that the committee constituted by its Resolution of December 21, 1946 (to confer with the Negotiating Committee set up by the Chamber of Princes and with other representatives of Indian States for certain specified purposes) shall in addition have power to confer with such persons as the committee thinks fit for the purpose of examining the special problems of Bhutan and Sikkim and to report to the Assembly the result of such examination.

## PAPERS RELATING TO THE STATES COMMITTEE

### December 1946—June 1947

*[The States Committee appointed by the Constituent Assembly [see Document No. 90(iv)] to confer with the corresponding Committee set up by the Chamber of Princes and other representatives of the princely States [see Document No. 90(iii)] held its first meeting on January 16, 1947. At this and subsequent meetings of the Committee, as also at the joint meetings of the two committees (see Document Nos. 92 and 93) a number of papers setting out the respective viewpoints of the two committees and various proposals formulated by them or their secretariats in regard to the scope of negotiations, the distribution of the 93 seats in the Constituent Assembly allotted to the princely States under the Cabinet Mission's Plan [see Document No. 48(i)], the method of selection of the States' representatives, etc., were circulated. These papers, along with certain others relating to (a) negotiations with Baroda, which chose to have direct dealings with the Constituent Assembly irrespective of what the Negotiating Committee appointed by the Chamber of Princes did or did not do, and (b) attitude of the States Peoples Conference, are reproduced below.]*

#### (I) LETTER FROM B. L. MITTER, DEWAN OF BARODA, TO THE SECRETARY OF THE CONSTITUENT ASSEMBLY

January 8, 1947

ON BEHALF OF Baroda State, I beg to say that on the population basis Baroda is entitled to three seats in the Constituent Assembly. The Govt. of Baroda are prepared to select two by Election and one by Nomination of the Ruler. The Election will be through an Electoral College, elected by all the Village *Panchayats* and the Municipalities which cover the whole population of the State.

If this method of selection is acceptable to the British Indian Negotiating Committee, kindly let me know, so that we may proceed with our elections without delay. If not acceptable, I request you to fix a date after the 25th January when I shall come to Delhi to present Baroda's case to the said Negotiating Committee.

(II) B. N. RAU'S NOTE ON THE DISTRIBUTION OF SEATS  
AMONG THE PRINCELY STATES  
January 28, 1947

This note has been prepared in accordance with the decision of the States Committee at its meeting of 16th January, 1947. The Negotiating Committee set up by the Chamber of Princes will probably contend that the distribution of seats among the Indian States, as distinct from the method of selecting the representatives from each State, is not a matter for consultation between these committees at all. The Constituent Assembly has however taken the view that the method of selection includes allotment of seats. The present note proceeds on this view. To a large extent, it is based on Statement II circulated to members of the States Committee at the last meeting, but a few changes have been made: in particular, the proposal to give representation to the frontier groups, as distinct from the interior groups, is new. The representation given to some of the interior groups may have to be split up as the result of arrangements which may be arrived at between now and the date of selection. For example, I believe that certain negotiations are contemplated between the Orissa States in Division XVI and the Provincial Government of Orissa. What the outcome may be no one can tell; but if the negotiations come to anything, it is just possible that the first 13 States shown in Division XVI at page 6 of the note—that is to say, the States from Sonapur to Bonai inclusive, which, with Mayurbhanj, comprise the Orissa States—may have to be detached from the rest of the Division and provided for separately. The allotment suggested in the note is therefore to some extent tentative.

There are two main problems before the committee: (1) The distribution of seats among the Indian States, and (2) The method of selecting the representatives allotted to each State.

(1) *Distribution of seats:*

On the basis adopted for British India, the main criterion would be the population and seats would be allotted roughly in the proportion of one to every million inhabitants. In the allocation of seats to single States, we may treat fractions (of a million) not less than three-fourths as equal to one and ignore smaller fractions. This will give us the following distribution:

*A*  
*Single States*

Division as shown in the Table of Seats appended to Part II of the First Schedule to the Govt. of India Act, 1935	Name of State	Population in millions	Number of seats in the Constituent Assembly
I	Hyderabad	16.33	16
II	Mysore	7.32	7
III	Kashmir	4.02	4
IV	Gwalior	4.00	4
V	Baroda	2.85	3
IX	Travancore	6.07	6
"	Cochin	1.42	1
X	Udaipur	1.92	2
"	Jaipur	3.04	3
"	Jodhpur	2.55	2
"	Bikaner	1.29	1
"	Alwar	0.82	1
"	Kotah	0.77	1
"	Indore	1.51	1
"	Bhopal	0.78	1
"	Rewa	1.82	2
XIII	Kolhapur	1.09	1
XIV	Patiala	1.93	2
"	Bahawalpur	1.34	1
XVI	Mayurbhanj	0.99	1
	20	61.86	60

We next come to Groups of States. The most important among them are those which include certain frontier States; their value from the defence point of view justifies some relaxation of the population standard



adopted above. For such Groups we may properly treat fractions of a million not less than one-half as equal to one and allot seats accordingly. The resulting distribution is shown below :

**B**  
*Frontier Groups*

Division	Names of States in the Group	Population in millions	Number of seats in the Constituent Assembly	
VI	Kalat . . . . .	0.25	0.66	1
..	Las Bela . . . . .	0.07		
..	Kharan . . . . .	0.03		
XIV	Khairpur . . . . .	0.31		
VII	Sikkim . . . . .	0.12	0.76	1
XV	Cooch Behar . . . . .	0.64		
XV	Tripura . . . . .	0.51	1.23	1
XV	Manipur . . . . .	0.51		
XVI	Khasi . . . . .	0.21		
	Amb . . . . .	0.05	0.67	1
	Chitral . . . . .	0.10		
	Dir . . . . .	0.25		
	Swat . . . . .	0.26		
	Phulra . . . . .	0.01		
			3.32	4

The inclusion of Khairpur in the Kalat Group requires a word of explanation. In the Table of Seats prescribed in the Government of India Act, 1935, Khairpur occurs in Division XIV: it is one of the Punjab States along with Patiala and Bahawalpur. But Patiala and Bahawalpur are entitled to representation as single States on the basis of their own population, while Khairpur is not. We have therefore to find a suitable Group in which Khairpur can be included. A glance at the map will show that it will be difficult to group Khairpur with the remaining Punjab States like Kapurthala, Jind and Nabha. Khairpur is much nearer to Baluchistan and can be more appropriately grouped with Kalat and its neighbours.

Sikkim is a small frontier State, and its population being only .12 million, it would be impossible to give it representation in the Constituent Assembly except by grouping. Its nearest neighbour is Cooch Behar with a population of .64 million. Both Sikkim and Cooch Behar have, at different times, been under the sway of Bhutan and according to one theory the Rajas of Cooch Behar are of Tibetan origin. It would not, therefore, appear inappropriate to group Sikkim and Cooch Behar together and to allot one seat to the Group.

Manipur and Tripura have been coupled together in Division XV of the Table of Seats in the Government of India Act, 1935; we can continue the same grouping.

Chitral, Dir and Swat and the other two States of the North-West Frontier Agency obviously form a convenient Group.

We have finally to consider the interior Groups, where, on account of the number of States involved, we may adopt the same standard as in the Frontier Groups; that is to say, fractions of a million, in the population of the Group, are to be treated as equal to one if they are not less than one-half and are to be ignored in other cases. These interior Groups may be the same as those prescribed in the Government of India Act, 1935, *minus* the States already provided for above. We thus get the following distribution of seats for the interior Groups:

## C

Division	Name of States in the Group	Population in millions	Number of seats in the Constituent Assembly
VIII	Rampur Benares	0.93	1
IX	Pudukottai Banganapalle Sandur	0.49	Nil; hence included in residuary Group XVII below.
X	Bharatpur Tonk Dholpur Karauli Bundi		
(12 States)	Sirohi Dungarpur Banswara Partabgarh Jhalawar Jaisalmer Kishengarh	2.80	3

Division	Name of States in the Group	Population in millions	Number of seats in the Constituent Assembly
(26 States)	XI		
	Datia		
	Orchha		
	Dhar		
	Dewas (Senior)		
	Dewas (Junior)		
	Jaora		
	Ratlam		
	Panna		
	Samthar		
	Ajaigarh		
	Bijawar		
	Charkhari		
	Chhatarpur		
	Baoni	3.14	3
	Nagod		
	Mailhar		
	Baraundha		
	Barwani		
	Ali Rajpur		
	Shahpura		
	Jhabua		
	Sailana		
	Sitamau		
	Rajgarh		
	Narasingarh		
	Khilchipur		
(29 States)	XII		
	Cutch		
	Idar		
	Nawanagar		
	Bhavnagar		
	Junagadh		
	Rajpipla		
	Palanpur		
	Dhrangadhra		
	Gondal		
	Porbandar		
	Morvi		
	Radhanpur		
	Wankaner		
	Palitana		
	Cambay	5.23	5
	Dharampur		
	Balasinor		
	Baria		
	Chhota Udepur		
	Sant		
	Lunawada		
	Bansda		
	Sachin		
	Jawhar		
	Danta		
	Dhrol		
	Limbdi		
	Wadhwan		
	Rajkot		

Division	Name of States in the Group	Population in millions	Number of seats in the Constituent Assembly
XIII (15 States)	Sangli Savantvadi Janjira Mudhol Bhore Jamkhandi Miraj (Senior) Miraj (Junior) Kurundwad (Senior) Kurundwad (Junior) Akalkot Phaltan Jath Aundh Ramdurg	1.66	2
XIV (12 States)	Kapurthala Jind Nabha Mandi Bilaspur Suket Tehri-Garhwal Sirmur Chamba Faridkot Malerkotla Loharu	2.52	3
XVI (22 States)	Sonapur Patna Kalahandi Keonjhar Dhenkanal Nayagarh Talcher Nilgiri Gangpur Bamra Seraikela Baud Bonai Bastar Surguja Raigarh Nandgaon Khairagarh Jashpur Kanker Korea Sarangarh	6.13	6
XVII	All other States including the three States of Division IX above.	5.62	6
		28.52	29

*To summarise:* A with 20 single States having a total population of 61·86 millions will have 60 seats, B with 4 Groups of Frontier States having a total population of 3·11 millions will have 4 seats and C with a number of interior Groups having a total population of 28·52 millions will have 29 seats. There will thus be 93 seats in all for a total population of about 93 millions.

(2) *Method of selecting representatives :*

This will depend upon the number of representatives to be selected from each State or group and will, therefore, have to await the solution of the distribution problem.

(III) RESOLUTION ADOPTED AT A MEETING OF THE PRINCES SETTING OUT THEIR TERMS FOR CO-OPERATION

January 29, 1947

1. This meeting reiterates the willingness of the States to render the fullest possible co-operation in framing an agreed constitution for, and in the setting up of, the proposed Union of India in accordance with the accepted plan ; and declares :

(a) that the following fundamental propositions *inter alia* form the basis for the States' acceptance of the Cabinet Mission's plan :

(i) The entry of the States into the Union of India in accordance with the accepted plan shall be on no other basis than that of negotiation, and the final decision shall rest with each State. The proposed Union shall comprise, so far as the States are concerned, the territories of only such States or groups of States as may decide to join the Union, it being understood that their participation in the constitutional discussions in the meantime will imply no commitments in regard to their ultimate decision which can only be taken after consideration of the complete picture of the constitution.

(ii) The States will retain all subjects and powers other than those ceded by them to the Union. Paramountcy will terminate at the close of the interim period and will not be transferred to or inherited by the new Government of India. All the rights surrendered by the States to the paramount Power will return to the States. The proposed Union of India, will therefore, exercise only such functions in relation to the States in regard to Union Subjects as are assigned or delegated by them to the Union. Every State shall continue to retain its sovereignty and all rights and powers except to the extent that those rights and powers have been expressly delegated by it. There can be no question of any powers being vested or inherent or implied in the Union in respect of the States unless specifically agreed to by them.

- (iii) The constitution of each State, its territorial integrity, and the succession of its reigning dynasty in accordance with the custom, law and usage of the State, shall not be interfered with by the Union or any Unit thereof, nor shall the existing boundaries of a State be altered except by its free consent and approval.
  - (iv) So far as the States are concerned, the Constituent Assembly is authorised only to settle the Union Constitution in accordance with the Cabinet Mission's plan, and is not authorised to deal with questions bearing on the internal administrations or constitutions of individual States or groups of States.
  - (v) His Majesty's Government have made it clear in Parliament that it is for the States to decide freely to come in or not as they choose. Moreover according to the Cabinet Mission's Memorandum of 12th May, 1946 on States Treaties and Paramountcy "Political arrangements between the States on the one side and the British Crown and British India on the other will be brought to an end" after the interim period. "The void will have to be filled either by the States entering into a federal relationship with the successor Government... in British India, or failing this, entering into particular political arrangements with it."
  - (b) that, the States Negotiating Committee, selected by the Standing Committee of the Chamber of Princes and set up at the request of His Excellency the Viceroy in accordance with paragraph 21 of the Cabinet Mission's Statement of the 16th May, 1946, is the only authoritative body competent under the Cabinet Mission's plan to conduct preliminary negotiations on behalf of the States, on such questions relating to their position in the new Indian Constitutional structure as the States might entrust to it.
  - (c) that while the distribution *inter se* of the States' quota of seats on the Constituent Assembly is a matter for the States to consider and decide among themselves, the method of selection of the States' representatives is a matter for consultation between the States' Negotiating Committee and the corresponding Committee of the British India portion of the Constituent Assembly before final decision is taken by the States concerned.
2. This meeting—
- (a) endorses the Press Statement issued on 10th June, 1946, by the Standing Committee of the Chamber of Princes in consultation with the Committee of Ministers and the Constitutional Advisory Committee, in regard to the attitude of the States towards the Cabinet Mission's plan; and
  - (b) supports the official statement of the views communicated by the States Delegation to the Cabinet Mission on 2nd April, 1946 which *inter alia* associated the States with the general desire in the

country for India's complete self-government or independence in accordance with the accepted plan.

3. This meeting resolves that, in accordance with this Resolution and the instructions and Resolutions of the States' Constitutional Advisory Committee as endorsed by the Standing Committee of Princes and the Committee of Ministers, the States Negotiating Committee be authorised to confer with the corresponding Committee of the British India portion of the Constituent Assembly, as contemplated and declared by His Majesty's Government in Parliament, in order to negotiate (a) the terms of the States' participation in the Constituent Assembly when it reassembles under paragraph 19(6) of the Cabinet Mission's Statement and (b) in regard to their ultimate position in the All-India Union, provided that the results of these negotiations will be subject to the approval of the aforesaid States' Committees and ratification by the States.

(IV) STATEMENT PREPARED BY THE SECRETARIAT OF THE PRINCES' CHAMBER SHOWING 140 STATES, THE RULERS OF WHICH ARE MEMBERS OF THE CHAMBER OF PRINCES IN THEIR OWN RIGHT  
ARRANGED ACCORDING TO POPULATION  
(Corrected upto February 3, 1947)\*

Name of State			Population
			(According to census of 1941)
I	II	III	IV
1. Hyderabad . . . . .	*		16,338,534
2. Mysore . . . . .	*		7,329,140
3. Travancore . . . . .	*		6,070,018
4. Jammu & Kashmir . . . . .	*		4,021,616
5. Gwalior . . . . .	*		4,006,159
6. Jaipur . . . . .	*		3,040,876
7. Baroda . . . . .	*		2,855,010
8. Jodhpur . . . . .	*		2,555,904
9. Patiala . . . . .	**	*	1,936,259
10. Udaipur . . . . .	**	* a	1,926,698
11. Rewa . . . . .	**	*	1,820,445
12. Indore . . . . .	*		1,513,966
13. Cochin . . . . .	*		1,422,875

\*The Statement was prepared by the Secretariat of the Chamber of Princes in response to a request by the Secretary to the Constituent Assembly. Copies of the Statement were circulated to the members of the States Committee on February 5, 1947. For explanation of asterisk marks etc. see Explanatory Note appended at the end of the Statement.

	I	II	III	IV
14. Bahawalpur . . . . .	**	*		1,340,342
15. Bikaner . . . . .	*			1,292,938
16. Kolhapur . . . . .	*			1,092,046
17. Mayurbhanj . . . . .	*			990,977
18. Alwar . . . . .	**	*		823,055
19. Bhopal . . . . .	*			785,322
20. Kotah . . . . .	**	*		777,398
21. Junagadh . . . . .	**	*		670,799
22. Cooch-Behar . . . . .	*			639,898
23. Bastar . . . . .			*	633,888
24. Patna . . . . .	*			632,220
25. Bhavnagar . . . . .	*			618,429
26. Bharatpur . . . . .	*			575,625
27. Surguja . . . . .			*	551,307
28. Tehri-Garhwal . . . . .	*			536,989
29. Keonjhar . . . . .			*	529,786
30. Kalahandi . . . . .	*			529,751
31. Tripura . . . . .	*			513,010
32. Manipur . . . . .	**	*		512,127
33. Nawanagar . . . . .	**	*		504,006
34. Kutch . . . . .	**	*		500,800
35. Rampur . . . . .	*			477,042
36. Benares . . . . .	*			450,126
37. Pudukottai . . . . .	*			438,348
38. Gangpur . . . . .	**	*		399,297
39. Kapurthala . . . . .	**	*		378,380
40. Orchha . . . . .	*			363,504
41. Jind . . . . .	*			361,812
42. Tonk . . . . .			*	357,933
43. Nabha . . . . .	**	*		340,044
44. Dhenkanal . . . . .	**	*		324,212
45. Palanpur . . . . .	*			315,855
46. Raigarh . . . . .	*			312,643
47. Idar . . . . .	*			307,798
48. Khairpur . . . . .	**	*		305,787
49. Banswara . . . . .	*			299,913
50. Sangli . . . . .	*			293,398



I	II	III	IV
51. Dholpur . . . . .	**	*	286,901
52. Dungarpur . . . . .	*		274,282
53. Dhar . . . . .	**	*	253,210
54. Sawantwadi . . . . .	**	*	252,200
55. Bundi . . . . .	*		249,374
56. Rajpipla . . . . .	*		249,032
57. Sonepur . . . . .	(a)*		248,873 (a) Advisory Popular Assembly
58. Gondal . . . . .	**	*	244,514
59. Sirohi . . . . .	(b)*		233,879 (b) Central Advisory Committee
60. Mandi . . . . .	*		232,593
61. Panna . . . . .	*		231,117
62. Jashpur . . . . .	**	*	223,632
63. Nandgaon . . . . .	**	*	208,916
64. Faridkot . . . . .	**	*	199,283
65. Baria . . . . .		*	189,062
66. Chhatarpur . . . . .	*		184,716
67. Jhabua . . . . .	**	*	178,327
68. Bamra . . . . .	*		178,227
69. Barwani . . . . .	**	*	176,666
70. Datia . . . . .	*		174,072
71. Khairagarh . . . . .	*		173,829
72. Chamba . . . . .	**	*	168,938
73. Chhota-Udepur . . . . .	**	*	162,145
74. Nayagarh . . . . .	*		161,409
75. Seraikella . . . . .	*		156,374
76. Sirmoor . . . . .	*		156,054
77. Bhor . . . . .	*		155,961
78. Karauli . . . . .		*	152,413
79. Morvi . . . . .	*		149,817
80. Kanker . . . . .	**	*	149,471
81. Rajgarh . . . . .		*	148,609
82. Porbandar . . . . .	*		146,564
83. Baudh . . . . .	(c)*		146,175 (c) Advisory Council
84. Sarangarh . . . . .	**	*	142,065

I	II	III	IV
85. Korea . . . . .	*		126,874
86. Jamkhandi . . . . .	*		126,272
87. Ratlam . . . . .	**	*	126,117
88. Narsingarh . . . . .	**	*	125,128
89. Charkhari . . . . .	**	*	123,592
90. Dharampur . . . . .	**	*	123,336
91. Jhalawar . . . . .	**	*	122,299
92. Bijawar . . . . .	**	*	120,928
93. Janjira . . . . .	**	*	117,382
94. Jaora . . . . .	**	*	116,953
95. Alirajpur . . . . .	(d)*		112,754 (d) Central Local Board
96. Bashahr . . . . .	**	*	111,459
97. Bilaspur . . . . .	**	*	110,394
98. Sikkim . . . . .	**	*	109,651
99. Miraj (Senior) . . . . .	*		108,621
100. Jath . . . . .	*		107,036
101. Lunawada . . . . .	*		105,318
102. Kishengarh . . . . .	*		104,155
103. Akalkot . . . . .	*		103,903
104. Rajkot . . . . .	**	*	103,303
105. Ajaigarh . . . . .	**	*	96,596
106. Cambay . . . . .	**	*	96,501
107. Dhrangadhra . . . . .	**	*	94,417
108. Sant . . . . .	**	*	94,257
109. Jaisalmer . . . . .	**	*	93,246
110. Partabgarh . . . . .	**	*	91,967
111. Dewas (Senior) . . . . .	*		89,479
112. Malerkotla . . . . .	**		88,169
113. Nagod . . . . .	*		87,911
114. Talcher . . . . .	**		86,432
115. Dewas (Junior) . . . . .	*		83,669
116. Maihar . . . . .	**		79,558
117. Palitana . . . . .	*		76,432
118. Mudhol . . . . .	*		72,447
119. Phaltan . . . . .	*		71,473
120. Suket . . . . .	*		71,092

I	II	III	IV
121. Radhanpur . . . . .	**	*	67,923
122. Kalsia . . . . .	**	*	67,392
123. Jawhar . . . . .	**	*	65,126
124. Shahpura . . . . .		*	61,173
125. Balasinor . . . . .		*	61,035
126. Wankaner . . . . .	*		54,960
127. Bansda . . . . .	*		54,764
128. Wadhwan . . . . .		*	50,934
129. Khilchipur . . . . .	**	*	48,642
130. Banganapalle . . . . .		*	44,631
131. Limbdi . . . . .	**	*	44,003
132. Sailana . . . . .		*	40,228
133. Samthar . . . . .	*		38,279
134. Sitamau . . . . .	*		34,644
135. Dhrol . . . . .		*	33,677
136. Danta . . . . .	**		31,110
137. Kurwai . . . . .	*		29,557
138. Loharu . . . . .		*	27,892
139. Sachin . . . . .	(e)*		26,231 (e) Central pancha- yats
140. Baoni . . . . .	**	*	25,256

### Explanatory Note

1. Column 1 gives the name of State.

2. Column 2 refers to Legislative Assemblies or similar State representative bodies. In some cases, central panchayats or other representative bodies have been set up with functions ordinarily allotted to the legislature. Where this is so, an indication is given in the remarks column.

Where a State has a legislature with a considerable proportion of elected members, it is shown with a star mark "\*" in column 2. Where the setting up of such legislative assemblies is under active consideration and committees for that purpose have been set up, it is indicated by "\*\*\*" in column 2.

3. Column 3 refers to local bodies.

Where legislatures or central bodies with elected members do not exist in States, but there are local bodies such as municipalities or district boards or *panchayats* with elected members, it is shown with a star mark in column 3.

It is understood that in all States with legislatures there are also local bodies with elected members. Moreover, a number of States are actively considering the setting up of regional groups with legislatures for the group with elected members.

4. Column 4 gives the population of each State.

(V) SUMMARY OF DISCUSSIONS AT THE MEETINGS OF THE STATES  
PEOPLES' NEGOTIATING COMMITTEE

February 5, 1947

The first meeting of the States Peoples' Negotiating Committee took place on the 5th afternoon at about 2 P.M. at the President's residence. All the members except Mr. S. Nijalingappa were present.

1. *The representative character of the Chamber of Princes and the Negotiating Committee appointed by it* : Dr. Pattabhi Sitaramaya, the President, initiated a discussion on the subject.

The Princes' Chamber as at present constituted represents only 109 States directly and 125 States indirectly through 12 representatives. Some of the bigger States, particularly Hyderabad, Kashmir, Baroda, Mysore, Travancore, Cochin and Indore have kept out of the Chamber. These seven big States are collectively entitled to 38 seats in the Constituent Assembly. In view of these facts it is not clear how far the Chamber of Princes could claim to represent all the States. Another point to be noted in this connection is that, judging from the resolution of the Constituent Assembly appointing the Negotiating Committee, it contemplates direct negotiations with States other than those connected with the Chamber. This fact also detracts considerably from the representative character of the Chamber of Princes.

2. *The formation of the Negotiating Committee appointed by the Princes* : To begin with, it is not clear how the Negotiating Committee appointed by the Princes could be regarded as representing all the Princes. Secondly, it must also be borne in mind that the manner in which the Princes' Negotiating Committee has been constituted is not in conformity with the statement of Lord Pethick-Lawrence—May 17th, 1946—while explaining the Cabinet Mission's proposal of May 16th. Lord Pethick-Lawrence, in reply to a question, made it clear that the Negotiating Committee of the States "would be formed in consultation with all the parties concerned". Hence it is clear that the formation of the Princes' Negotiating Committee is not in conformity with the conditions laid down by the Secretary of State for India, since the Princes' Negotiating Committee was formed by the Viceroy with the consultation of the Princes only.

It becomes clear, therefore, that the Princes' Negotiating Committee as at present constituted is unconstitutional in composition and as such cannot speak on behalf of the States. It cannot even speak on behalf of all the Princes, much less on behalf of the States or their people. As such it will be necessary to carry on negotiations with other Princes independently of the Princes' Negotiating Committee. This is called for and is perfectly justified.

3. *Scope of discussions between the Princes' Negotiating Committee and the Corresponding Committee appointed by the Constituent Assembly* :

The first point which comes within the scope of the discussions of the two Committees is the distribution of the 93 seats among the States and the method of selection of these 93 representatives for the Constituent Assembly. This poses the following questions :

(a) How to distribute the 93 seats ?

(b) How the States' representatives are to be sent to the Constituent Assembly—election, selection or nomination ?

Regarding the method of distribution and selection three alternatives were suggested. It must be remembered that the Cabinet Mission have allotted 93 seats to the States purely on population basis. Nowhere has it been laid down that this representation is on the basis of one seat per million of population. Hence we may consider the following alternatives :

(i) Should these 93 seats be divided strictly according to population thereby providing individual representation wherever justifiable and collective representation wherever necessary?

(ii) Should communal basis on lines adopted in the Mission's proposals for British India be adopted, *i.e.*, recognition of three communities, Muslims, Sikhs and others ?

(iii) The third alternative which may reconcile the above two alternatives may be to divide the representations into two big lumps, *i.e.*, The Princes' quota and the people's quota. Any principle that we may adopt for the method of selection will naturally apply to both.

4. *Consideration of the Chamber of Princes Resolution (29 Jan. 1947) :* The resolution was taken up paragraph by paragraph. The committee noted the following claims of the Chamber :

(a) that the States may negotiate individually the terms of entry into the Union ;

(b) that their joining the Constituent Assembly does not commit them to join the Union.

The question of inherent powers of the Union is a matter for discussion and decision by the Constituent Assembly. Regarding the constitution of the States, their territorial integrity and the succession of the reigning dynasty, our Committee did not wish to express any opinion at this stage, nor was it felt necessary at the present moment to go into the details of the internal administration or constitution of individual States being determined by the Constituent Assembly. This is a matter which can be discussed later on at the time of joining the Union. The definition and criteria of a unit can be determined only at a later stage.

Regarding Point 5 in the Chamber resolution dealing with the future relationship between the States and the Union Centre there was general agreement but it was understood that the States or units would in the final analysis mean only such States as could exist in terms of the resolutions of the All-India States Peoples' Conference.

Part B of Point 5 of the resolution asserting that the Negotiating Committee appointed by the Princes is "the only authoritative body competent under the plan to conduct preliminary negotiations on behalf of the States on such questions relating to their position in the new Indian constitutional structure as the States might entrust to it" was not acceptable to the Committee, nor was the latter Part of the Part (C) of the same point acceptable to the Committee. These two parts of Point 5 were therefore to be challenged.

5. To sum up, the following points emerged from the discussion :

- (i) That the Chamber of Princes does not represent the Princes as a whole.
- (ii) That most of the bigger States have remained outside the Chamber.
- (iii) That the Negotiating Committee appointed by the Princes is not in accordance with the conditions laid down by the Secretary of State in the statement of May 17, 1946.

Further, that the Princes Negotiating Committee represents Princes only ; it does not represent the States or the States' people.

- (iv) These facts narrow the scope of discussions between the two Negotiating Committees and make it necessary to carry on negotiation with other Princes and also with other parties.
- (v) The method of distribution and the manner of selection of the States' representatives for the Constituent Assembly have to be devised suitably.
- (vi) The States or units would in the final analysis mean only such States as can exist in terms of the resolutions of the All-India States Peoples' Conference.
- (vii) In the Chamber resolution certain assertions have been made which cannot be accepted by the people. These are :
  - (a) That the Princes Negotiating Committee is the only authoritative and competent body to negotiate on behalf of the States.
  - (b) That the method of selection of States' representatives for the Constituent Assembly is a matter of consultation between the Princes Negotiating Committee and the Corresponding Committee of the Constituent Assembly.
  - (c) Terms to join the Constituent Assembly.
  - (d) Terms for joining the Federal Union ultimately.
  - (e) That the States Negotiating Committee be authorised to confer with the Corresponding Committee of the British India portion of the Constituent Assembly in order to negotiate—(i) the terms of States' participation in the Constituent Assembly when it assembles under article XIX of the Cabinet Mission's proposal and (ii) in regard to their ultimate position in the All-India Union.

(VI) BARODA'S PROPOSALS REGARDING ELECTION OF THE STATES'  
REPRESENTATIVES TO THE CONSTITUENT ASSEMBLY\*

February 7, 1947

(a) *An outline of the Proposals*

The States Negotiating Committee and the British Indian Negotiating Committee will shortly meet to decide upon the method of selection of the States' members for the Constituent Assembly. The Cabinet Mission scheme envisages one member per 1,000,000 of population. The intention is that the entirety of the States' people should be represented. In order to give effect to this intention, it is necessary to enlist the medium of such of the representative bodies in the State as cover the entire population. Municipalities in urban areas represent the urban population and village *panchayats* represent the rural population.

His Highness the Maharaja Saheb has, therefore, been pleased to decide that an electoral college should be constituted which will represent the entire population of the State. It is estimated that the electoral college will consist of 12 urban members to be elected by municipalities and 46 rural members to be elected by the village *panchayats*, on the rough basis of one for 50,000 of the population. This electoral college will be called upon to elect as many persons as are to be selected for the Constituent Assembly.

(b) *A Detailed Note*

Baroda can claim three seats in the Constituent Assembly. The question now is, how are the three representatives to be sent there? Considering the special obligations which Baroda State has on its shoulders arising out of the Attachment scheme, it becomes necessary that one at least of the three members to the Constituent Assembly should be His Highness' nominee. The larger interests of the State also need to be properly safeguarded. Taking all these factors into account, the Dewan should be nominated as one of the three.

Then remains the question of the remaining two members. The policy of His Highness' Government has all along been liberal, responsive to public opinion and in line with the best democratic ideals. It is, therefore, desired that these two members to the Constituent Assembly should be the *real representatives* of the people. How best to secure such a result? Baroda has a popular legislature; but according to the existing franchise, it represents only 8% of the population. Any election through the *Dharasabha*, therefore, can at best confer the representative character only upto that extent. Members

\*The proposals were placed before the States Committee of the Constituent Assembly by B. L. Mitter, Dewan of Baroda, on February 7, 1947.

elected thus cannot in fairness be considered as the real representatives of the State population as a whole.

Some method, therefore, needs to be devised by which it may be practicable to secure the real representatives of the people elected for the Constituent Assembly. The population of the State resides in two groups, classified as (i) urban, (ii) rural. The unit of community life is a town or city in urban areas, and a village in rural areas. Every city or town has a municipality and *panchayats* are constituted for the villages. These bodies represent the will of the people of their respective areas. There is no area in the State (except the forest area) which does not possess either a municipality or a *panchayat*. There are 42 towns each having a municipality and 2,054 regular village *panchayats*, 391 group *panchayats*, 31 Union *panchayats* which comprise all the 3,159 villages of the Raj, except 98 of the newly constituted Dabhoda and Nirmali *Mahals* where the village *panchayats* are yet to be set up.

Any election through the medium of these bodies will be one where 100% of the people have their choice made directly or indirectly. If it is decided to have one representative for a population of 50,000, there would be roughly 60 such representatives for the whole State. These 60 may form an Electoral College to elect two members to the Constituent Assembly. Such an election can legitimately be claimed to be one by all the people, and persons so elected can claim to be the *real representatives* of the people of the whole State.

This may be done on the following lines :

- (1) There should be one representative for every 50,000 of the population.
- (2) Wherever in towns and cities, the population is large enough to elect members on the above standard, the municipalities concerned may elect independently such representatives.
- (3) The rest of the areas should be divided into groups (a) urban and (b) rural.
- (4) In urban areas, the towns should be suitably grouped district-wise so as to satisfy the 50,000 population standard and elect representatives from such groups.
- (5) In rural areas, groups of *panchayats* in each *Mahal* should be so formed that they represent a 50,000 population standard.
- (6) Wherever the population of a *Mahal* or *Peta-Mahal* is less than the standard fixed above, such areas should be grouped with other areas to form the necessary unit.
- (7) All the members of the local bodies—municipalities and village *panchayats*—except the Government servants nominated on them, shall be eligible to vote. The *Patels* as *ex-officio* Presidents of the village *panchayats* shall not be deemed to be Government servants and shall be eligible to vote.



(8) (a) Wherever a municipality is entitled to elect more members than one, the election shall be by proportional representation by a single transferable vote ;

or

(b) In the case of the Baroda City municipality the election of representatives for the electoral college shall be by proportional representation by a single transferable vote.

(9) If the unit of population does not reach the fixed standard but comes up to 75% of it, such a unit will be entitled to elect one representative.

(10) The grouping in the case of rural areas will, as in the case of the urban areas, be restricted district-wise.

(11) The *Sarsuba* may be empowered to form the necessary groups for the purpose of fitting them in the scheme but keeping in mind the essentials defined above.

(12) *Okhamandal* may be treated as a special case as shown in Statement 'A'.\*

Statement 'A' will show a rough picture of the scheme tabulated above.

#### (VII) NOTE CIRCULATED BY THE SECRETARY OF

#### THE CONSTITUENT ASSEMBLY

February 8, 1947

I hereby circulate the minutes of the Conference of the States Committee with Sir B. L. Mitter. The minutes have been approved by him.

Sir B. L. Mitter desires to correct a statement made by him at the conference to the effect that the *panchayats* are not elected by the people but nominated by the officials. He has since ascertained that two-thirds of the members of a village *panchayat* are elected and not more than one-third nominated. A note clarifying the point has now been received from him and is in the Annexure.

#### ANNEXURE

##### 1. Village panchayats :

Two-thirds elected and not more than one-third nominated. In the nominated, the *patel* (Head-man) is included and he is the chairman *ex officio* of the *panchayat*. The minimum number of the members of a *panchayat* is 6 and maximum 9 and in practice, more than two are never nominated.

##### 2. Municipalities :

(i) "A" Class municipalities are for cities and bigger towns. The proportion between the nominated and elected is equal. But in the nominated, half are officials and half are non-officials. In the premier municipality of Baroda city, the proportion of elected and the nominated members is two-thirds and one-third respectively.

(ii) "B" Class municipalities are for smaller towns. The nominated element is

\*Statement not reproduced.

one-third and the elected two-thirds. Of the nominated members, half are officials and half non-officials.

The principle upon which the nomination is to be made to these bodies is that it should be from (i) backward classes, (ii) minorities, (iii) women.

(VIII) B. N. RAU'S NOTE REGARDING NEGOTIATIONS BETWEEN  
THE STATES COMMITTEE AND THE CORRESPONDING  
COMMITTEE OF THE PRINCES

February 8, 1947

We are meeting the States Negotiating Committee today. I suggest that the best course would be not to deal in detail with the points which have been raised in the Rulers' resolution of January 29, 1947, or any similar points, but to take a broad line. For example, we may say to them :

You have laid down certain fundamental propositions on the basis of which you have apparently accepted the Cabinet Mission's plan.

We are merely members of a committee appointed by the Constituent Assembly for certain specific purposes and it is not for us either to agree or to refuse to agree to those propositions. In particular, it is not for us to call in question the terms of the very resolution from which we derive our authority.

You can raise all these matters at the proper time and in the proper place; but this is not the right time nor is this conference the right forum.

Meanwhile, let us—that is, you on the one side and we on the other—try and reach agreement (a) on the distribution of the 93 seats, and (b) on the method of filling them, leaving all the other questions open.

(IX) PRESS COMMUNIQUE REGARDING BARODA'S REPRESENTATION  
ISSUED BY THE SECRETARY OF THE CONSTITUENT ASSEMBLY

February 9, 1947

The States Committee of the Constituent Assembly met Sir B. L. Mitter, Dewan of Baroda, and it was agreed that on the population basis Baroda should have three representatives in the Constituent Assembly. It was further agreed that these representatives should be elected on the principle of proportional representation by means of the single transferable vote by the *Dhara Sabha* (State Legislature), only the elected and the nominated non-official members voting. The official nominated members will not vote.

(X) JOINT STATEMENT ISSUED BY THE NAWAB OF BHOPAL,  
CHANCELLOR OF THE CHAMBER OF PRINCES AND  
JAWAHARLAL NEHRU

February 9, 1947

The States Negotiating Committee set up by the Chamber of Princes

and the corresponding Committee of the Constituent Assembly held joint meetings yesterday and today. In the course of the discussions, reference was made to the Cabinet Delegation's statement of the 16th May, the resolutions of the Constituent Assembly and the resolution passed by the Conference of Rulers. The discussions were friendly and satisfactory. On the basis of a general understanding arrived at, it was decided to take up the question of the representation of the States in the Constituent Assembly. The Secretariats of the Assembly and the Chamber of Princes were accordingly asked together to draw up detailed proposals for the allocation of the 93 seats allotted to the States and to place them for consideration before the next joint meeting of the two committees which will consider the proposed allocation as well as the method of selection of the States' representatives.

The next joint meeting will be held on the 1st of March.

(XI) B. N. RAU'S NOTE REGARDING THE PROPOSED  
ALLOCATION OF SEATS

February 10, 1947

As I was told that the Chancellor would like to see the allocation of the seats made by the two Secretariats before it was finalised, I contacted His Highness the Nawab of Bhopal last night. He had no comment on the proposals; but I was told this morning that he would like to make a slight change, namely, that Janjira should be put, like Jafraabad, into the Gujarat group rather than in the Deccan group. Janjira's population being 0.10 million, its transfer from the Deccan group to the Gujarat group would mean no difference in the allocation of seats and the transfer would have the advantage of keeping both parts of the Janjira State in one and the same group, namely, the Gujarat group. I have not had the time to consult the States Peoples' Conference Secretaries on this small change; but presumably they will not object. I have accordingly made the change in the draft proposals.

As it was thought that the Jamsaheb might take some objection to the draft allocation, it was shown to him and I am informed that he has also approved of it.

(XII) NOTE ON THE PROPOSED ALLOCATION OF SEATS AMONG  
STATES PREPARED BY THE SECRETARIATS OF THE CONSTITUENT  
ASSEMBLY AND THE CHAMBER OF PRINCES

February 11, 1947\*

1. The allocation of seats proposed in the Appendix has been prepared

\*Two representatives of the All-India States Peoples' Conference also attended the meeting at which the proposals embodied in the Note were formulated by the two Secretariats.

by the Secretariats of the Constituent Assembly and the Chamber of Princes and is intended as a basis of discussion for the Committees concerned.

2. As in British India, seats for individual States have been allotted generally on the basis of one seat for one million of the population, fractions of three-fourths or more counting as one and lesser fractions being ignored. In the case of groups fractions of more than half have been counted as one, lower fractions being ignored.

3. States so desiring may pool or share their proportion of the allotted representation, whether individual or grouped, with that of any other State or group of States by mutual agreement provided :

- (a) that the total representation of the States and/or the groups affected is not disturbed, and
- (b) that geographic proximity, economic considerations and ethnic, cultural and linguistic affinity are duly kept in view.

## APPENDIX

### A

#### *Single States*

Division as shown in the Table of Seats appended to Part II of the First Schedule to the Govt. of India Act, 1935	Name of State	Population in millions	Number of seats in the Constituent Assembly
I	Hyderabad . . . . .	16.33	16
II	Mysore . . . . .	7.32	7
III	Kashmir . . . . .	4.02	4
IV	Gwalior . . . . .	4.00	4
V	Baroda . . . . .	2.85	3
IX	Travancore . . . . .	6.07	6
IX	Cochin . . . . .	1.42	1
X	Udaipur . . . . .	1.92	2
X	Jaipur . . . . .	3.04	3
X	Jodhpur . . . . .	2.55	2
X	Bikaner . . . . .	1.29	1
X	Alwar . . . . .	0.82	1
X	Kota . . . . .	0.77	1
XI	Indore . . . . .	1.51	1
XI	Bhopal . . . . .	0.78	1
XI	Rewa . . . . .	1.82	2
XIII	Kolhapur . . . . .	1.09	1
XIV	Patiala . . . . .	1.93	2
XIV	Bahawalpur . . . . .	1.34	1
XVI	Mayurbhanj . . . . .	0.99	1
	20	61.86	60

**B**  
*Frontier Groups*

Division	Names of States in the Group	Population in millions	Number of seats in the Constituent Assembly	
VI	Kalat . . . . .	0.25	0.66	1
	Las Bela . . . . .	0.07		
	Kharan . . . . .	0.03		
XIV	Khairpur . . . . .	0.31		
VII	Sikkim . . . . .	0.12	0.76	1
XV	Cooch Behar . . . . .	0.64		
XV	Tripura . . . . .	0.51	1.23	1
XV	Manipur . . . . .	0.51		
XVII	Khasi States . . . . .	0.21		
XVII	Amb . . . . .	0.05	0.67	1
XVII	Chitral . . . . .	0.10		
XVII	Dir . . . . .	0.25		
XVII	Swat . . . . .	0.26		
XVII	Phulra . . . . .	0.01		
			3.32	4

**C**  
*Interior Groups*

VIII	Rampur	}	0.93	1
	Benares			
IX	Pudukottai	}	0.49	Included in residuary Group XVII below.
	Banganapalle			
	Sandur			

Division	Names of States in the Group	Population in millions	Number of seats in the Constituent Assembly
X	Bharatpur	2.86	3
(13 States)	Tonk		
	Dholpur		
	Karauli		
	Bundi		
	Sirohi		
	Dungarpur		
	Banswara		
	Partabgarh		
	Jhalawar		
	Jaisalmer		
	Kishengarh		
	Shahpura		
XI			
XI	Datia	3.11	3
(26 States)	Orchha		
	Dhar		
	Dewas (Senior)		
	Dewas (Junior)		
	Jaora		
	Ratlam		
	Panna		
	Samthar		
	Ajaigarh		
	Bijawar		
	Charkhari		
	Chhatarpur		
	Baoni		
	Nagod		
	Maihar		
	Baraundha		
	Barwani		
	Ali Rajpur		
	Jhabua		
	Sailana		
	Sitamau		
	Rajgarh		
	Narsingarh		
	Khilchipur		
XVII	Kurwai		
XII	Cutch	3.65	4
(16 States)	Idar		
	Nawanagar		
	Bhavnagar		
	Junagadh		
	Dhrangadhra		
	Gondal		
	Porbandar		
	Morvi		
	Radhanpur		
	Wankaner		
	Palitana		
	Dhrol		
	Limbdi		
	Wadhwan		
	Rajkot		

Division	Names of States in the Group	Population in millions	Number of seats in the Constituent Assembly
XII-A	Rajpipla	1.69	2
	Palanpur		
	Cambay		
	Dharampur		
	Balasinor		
	Baria		
	Chhota Udepur		
(15 States)	Sant		
	Lunawada		
	Bansda		
	Sachin		
	Jawhar		
	Danta		
XIII	Janjira		
	Jafrabad		
XIII	Sangli	1.56	2
	Savantvadi		
	Mudhol		
	Bhor		
	Jamkhandi		
	Miraj (Senior)		
	Miraj (Junior)		
(14 States)	Kurundwad (Senior)		
	Kurundwad (Junior)		
	Akalkot		
	Phaltan		
	Jath		
	Aundh		
	Ramdurg		
XIV	Kapurthala	2.70	3
	Jind		
	Nabha		
	Mandi		
	Bilaspur		
	Suket		
(14 States)	Tehri-Garhwal		
	Sirmur		
	Chamba		
	Faridkot		
	Malerkotla		
	Loharu		
XVII	Kalsia		
	Bashahr		

Division	Names of States in the Group	Population in millions	Number of seats in the Constituent Assembly
XVI	Sonepur	4.25	4
	Patna		
	Kalahandi		
	Keonjhar		
	Dhenkanal		
	Nayagarh		
	Talcher		
	Nilgiri		
	Gangpur		
	Bamra		
	Seraikela		
	Baud		
(25 States)	Bonai		
XVII	Athgarh		
	Pal Lahara		
	Athmalik		
	Hindol		
	Narasingspur		
	Baramba		
	Tigiria		
	Khandpara		
	Ranpur		
	Daspalla		
	Rairakhol		
	Kharsawan		
XVI-A	Bastar	2.81	3
	Surguja		
	Raigarh		
	Nandgaon		
	Khairagarh		
	Jashpur		
(14 States)	Kanker		
	Korea		
	Sarangarh		
XVII	Changbhakar		
	Chhuikhadan		
	Kawardha		
	Sakti		
	Udaipur		
XVII	All other States including three States mentioned in Division IX, viz., Pudukottai, Banganapalle and Sandur . . . . .	4.26	4
		28.31	29



(XIII) TELEGRAM FROM MAHARAJA OF COCHIN TO THE PRESIDENT OF  
THE CONSTITUENT ASSEMBLY NEGOTIATING COMMITTEE

February 18, 1947

Understand from press reports that distribution of ninetythree seats between States will be decided at Joint Meeting of the two Negotiating Committees on March 1. Though population of this State is only 1.48 millions according to latest census from points of view of political and educational advancement and also the fact that it is one of the most important maritime States in the country this State would urge that I should be given two instead of one seat in consambly. This is the important State where responsible Government has very materially advanced. Four of the State Ministers are elected from Legislative Council holding office at pleasure of Legislative Council and they with Diwan are working as a Joint Cabinet. Except law and order, finance, palace and devaswom all other departments are under the control of Ministers. Educationally this State has six first grade colleges, eightytwo upper secondary schools, 175 lower secondary schools, 500 primary schools and also a Government Technological Institute and fortyseven industrial schools. In literacy this ranks with Travancore the first place in the country. The State has been the first to announce that selection to consambly will entirely be by election by Legislative Council with official members abstaining from voting. In these circumstances to give two seats condoning the small deficiency to make up population of two millions will not be a disadvantage even to the Assembly as a whole. Government are deputing the Minister Sri P. Govinda Menon who is also President of the State Constitutional Advisory Committee to make personal representations in this behalf. Request that due opportunity may be given to him and his officers to make necessary representations before you. The Minister and the officers would reach Delhi on twentyfifth February.

(XIV) B. N. RAU'S NOTE ON THE METHOD OF SELECTION OF  
STATES' REPRESENTATIVES

February 22, 1947

*Conditions of the problem :*

Owing to the Prime Minister's statement of February 20, 1947, the time factor has become more important than ever. A rough-and-ready solution which would enable the selections (elections or nominations) to be made in the shortest possible time, is what is now required.

On the population basis, out of the 93 seats reserved for the States, Muslims are entitled to 14, the "Tribes" to 9, the Scheduled Castes to 9, the Indian Christians to 3, and the Sikhs to 2. In any solution that may be adopted, it is necessary to secure these quotas.

If there were proper legislatures or really representative bodies in every State the best method would have been to get in all the 93 members by some form of election. But there are some important States still without legislatures (*e.g.*, Patiala, Udaipur, Rewa, Bahawalpur, Alwar and Kotah); in some States, the legislatures now in being have been boycotted by important sections of the population (*e.g.*, Hyderabad and Kashmir); there is hardly any time to examine how far such legislatures or other representative bodies as exist in any State are really representative of the people. For these reasons, there is much to be said for the plan which Dr. Pattabhi Sitaramayya mentioned at one of our meetings—namely to apportion the total seats among the Rulers and the people on a 50:50 basis, so that they would each have about 46.

The single-member States and groups may be left to the Rulers. This disposes of 14 seats and leaves 79. Of these 79, the Rulers would have to get about 32 and the people 47 : that is to say, these remaining seats would have to be divided among them roughly in the proportion of 2:3. The resulting distribution works out thus :

#### I. Single States (multi-member)

State	Total Seats	Ruler's Quota	People's Quota
Hyderabad . . . . .	16	6	10
Mysore . . . . .	7	3	4
Travancore . . . . .	6	2	4
Jammu & Kashmir . . . . .	4	2	2
Gwalior . . . . .	4	2	2
Jaipur . . . . .	3	1	2
Baroda . . . . .	3	1	2
Jodhpur . . . . .	2	1	1
Patiala . . . . .	2	1	1
Udaipur . . . . .	2	1	1
Rewa . . . . .	2	1	1
<b>TOTAL . . . . .</b>	<b>51</b>	<b>21</b>	<b>30</b>

II. *Groups of States (multi-member)*

Group	Total Seats	Ruler's Quota	People's Quota
Bharatpur & Others (13 States) . . . . .	3	1	2
Datia & Others (26 States) . . . . .	3	1	2
Cutch & Others (16 States) . . . . .	4	2	2
Rajpipla & Others (15 States) . . . . .	2	1	1
Sangli & Others (14 States) . . . . .	2	1	1
Kapurthala & Others (14 States) . . . . .	3	1	2
Sonepur & Others (25 States) . . . . .	4	2	2
Bastar & Others (14 States) . . . . .	3	1	2
Residuary . . . . .	4	2	2
TOTAL . . . . .	28	12	16

On this distribution, the Rulers get 14 *plus* 21 *plus* 12 or 47 seats in all and the people 46. At least two of the Rulers (Bikaner and Mayurbhanj) are apparently prepared to throw open their seats to election; one of them is likely to go to a non-official, so that the net result will probably be 46 to 47 (instead of 47 to 46).

The next question is precisely how the Rulers' seats and the people's seats are respectively to be filled. The former may be left to the Rulers concerned; in the case of single States, there will be only one Ruler concerned and in the case of groups of States, there will be more than one. The residuary group will require special treatment as the States concerned are not only many in number, but are also spread all over the map, so that it will hardly be possible for the Rulers to get together. For this group, we may perhaps leave the nomination to the States' Negotiating Committee.

Turning to the people's seats, we may at this stage merely say that they will be filled by the British Indian Negotiating Committee after such consultation with bodies representing the people of the States as the Committee thinks fit. We may perhaps call for a panel of names for each State, or group of States from representative bodies, if any, within the State or group or, if there are no such bodies, from organizations like the All India States People's Conference, the number of names for each State or group to be about double the number of seats to be filled. In selecting names from the panel, we should as far as possible see that the various communal quotas are secured.

This plan differs in one respect from that already accepted by Baroda. The latter provides that all the 3 seats allotted to Baroda should be filled

by election by the non-official members of the legislature by proportional representation (single transferable vote); in practice, however, the result will be the same on either plan. For, even if all 3 seats are filled by proportional representation, one of them will be returned by the nominated non-officials; in other words, he will be returned by the Ruler's nominees. There is no practical difference between this and direct nomination by the Ruler. So far as Baroda is concerned, therefore, either plan will give the same result.

This note is meant to serve merely as a basis for discussion.

(XV) A NOTE BY THE STATES PEOPLE'S CONFERENCE  
February 24, 1947

The statement \*prepared by the Chamber of Princes regarding legislative bodies in the Indian States is rather vague and misleading. According to this statement about 71 States have legislative assemblies or similar "State Representative Bodies" or *panchayats* or other local institutions. This, we are afraid, is an incorrect statement. There are several States in this list which have been shown as possessing legislative bodies but which actually possess none. Datia, to give only one instance, has been shown as possessing a legislative body, while as late as the 25th January, 1947, we had a letter from the Dewan of the State informing us that Datia had so far introduced no legislative reforms.

Our estimate is that out of these 71 States there are hardly 42 States which possess, what may be called legislative bodies. The remaining 542 States have no legislative bodies at all.

Legislative bodies in the Indian States, it is important to remember, do not enjoy the powers which similar institutions enjoy in western countries. Their scope and meaning is therefore very much limited. They are not sovereign, and even in matters transferred to them they are not the final authority. Final authority vests in the Ruler and his executive who are both irresponsible and unrepresentative. Generally the States assemblies are consultative and advisory bodies. Often they possess important nominated elements; and where an elected majority is provided it is rendered ineffective by the inclusion of special vested and communal interests in it.

The following is the list of States which, according to our information, have legislative bodies: (1) Hyderabad (2) Mysore (3) Kashmir (4) Travancore (5) Cochin (6) Gwalior (7) Jaipur (8) Baroda (9) Indore (10) Rampur (11) Benaras (12) Pudukottai (13) Jind (14) Sangli (15) Sawantwadi (16) Nayagarh (17) Serai Kella (18) Sirmur (19) Bhore (20) Porbandar (21) Jamkhandi (22) Miraj Senior (23) Miraj Junior (24) Dewas Senior (25) Dewas Junior (26) Mudhol (27) Phaltan (28) Sitamau (29) Kolhapur

\*See Doc. No. 91(iv).

(30) Mayurbhanj (31) Bhopal (32) Coochbehar (33) Bhavnagar (34) Bharatpur (35) Tehri-Garhwal (36) Palanpur (37) Raigarh (38) Akalkot (39) Kurundwad Senior (40) Tripura (41) Idar (42) Banswara. Particulars of 30 of these States are also attached herewith :

*Particulars of States' Legislatures*

Sl. No.	Name of State	Year of Reform	Nominated Members	Elected Members	Total Members	Composition of Elected Quota
1	Kashmir	1940	35	40	75	General : Muslims . . . 22 Hindus . . . 10 Sikh . . . 1 33 Spl. interests . . . 7
2	Hyderabad	1946	56	76	132	Agriculture . . . 32 Owners & Tenants of Lands & Houses . . . 20 Labour . . . 4 Jagirdars . . . 4 Other interests . . . 16
3	Mysore : Legislative Council.	1940	24	44	68	General . . . 24 Minorities . . . 10 Spl. interests . . . 10
	Legislative Assembly.		12	298	310	Urban . . . 45 Rural . . . 165 Minorities . . . 62 Spl. interests . . . 26
4	Gwalior : Raja Sabha	1941	20	20	40	Urban . . . 5 Rural . . . 11 Trade & Industry . . . 2 Jagirdars . . . 2
	Praja Sabha		35	55	90	Urban . . . 7 Rural . . . 41 Jagirdars . . . 4 Commerce . . . 1 Millowners . . . 1 Labour . . . 1
5	Baroda .	1940	19	37	56	Figures not available.
6	Jaipur : Legislative Council.	1944	14	37	51	General (4 Muslims) . . . 25 Sardars . . . 9 Spl. interests . . . 3
	Representative Assembly.		..	120	120	General (11 Muslims) . . . 89 Sardars . . . 25 Functional . . . 6

Sl. No.	Name of State	Year of Reform	Nominated Members	Elected Members	Total Members	Composition of Elected Quota
7	Indore . . .	1944	16	37	53	Rural (2 Muslims) . 17 Urban (1 Muslim) . 4 Municipalities (2 Muslims) . 6 Spl. interests (Graduates, Jagirdars, trade, industry & women) . 10
8	Cochin . . .	1938	20	38	58	General . 26 Spl. interests (Land holders, planters, commerce, industry, Christians & women) . 12
9	Travancore : Legislative Council.	1944	15	22	37	Figures not available.
	Legislative Assembly.		24	48	72	Figures not available.
10	Kolhapur . . .	1942	26	25	51	General . 13 Municipalities, Panchayats, Sardars & Jagirdars . 10 Harijan . 1 Minor Jagirs . 1
11	Rampur . . .	1940	17	17	34	Agriculture Tenants (3 Muslims) . 7 Zamindars & Jagirdars . 3 Municipal Board (2 Muslims) . 3 Educated persons, Legal practitioners, Commerce & factories . 4
12	Coochbehar . .	1944	7	8	15	Hindus & Muslims . 2 Legal Profession . 1 General . 5
13	Mayurbhanj . .	1945 *	15	12	37	General . 12
14	Nayagarh . . .	1946	6	8	14	General . 4 Aboriginals & Sch. Castes . 1 Traders . 1 Khanjadars . 1 Learned Profession . 1
15	Sirmur . . .	1945	5	20	25	Figures not available.
16	Bhavanagar . .	1942	22	33	55	Figures not available.

Sl. No.	Name of State	Year of Reform	Nominated Members	Elected Members	Total Members	Composition of Elected Quota
17	Porbandar	1944	6	24	30	Social Units . . . 11 Functional, vocational & economic interests . . . 13
18	Pudukottai	1937	18	42	60	Figures not available.
19	Sitamau	1940	8	13	21	Figures not available.
20	Phaltan	1942	6	12	18	General . . . 10 Scheduled Castes . . . 1 Women . . . 1
21	Miraj Junior	1935	8	8	16	Figures not available.
22	Bhor	1938	9	12	21	Urban . . . 1 Inamdars . . . 1 Talukas . . . 10
23	Aundh	1939	..	30	30	General Constituency (elected directly) . . . 15 (Through Panchayats) . . . 15
24	Kurundwad Senior	1942	5	20	25	States Services . . . 1 Privileged classes . . . 1 Teachers . . . 1 Practitioners . . . 1 Pleaders . . . 1 Women . . . 1 Municipality . . . 1 Artisans . . . 1 Business . . . 3 Agriculture . . . 9
25	Sawantwadi	1943	12	16	28	General . . . 13 Education . . . 1 Muslims . . . 1 Indian Christians . . . 1
26	Mudhol	1930	20	33	53	Weavers . . . 2 Patils . . . 2 Kulkarni . . . 1 Siledars . . . 1 Sanadis . . . 1 Inamdars . . . 1 Mahars and others . . . 2 Urban . . . 2 Rural . . . 21
27	Miraj Senior	1945	9	21	30	Figures not available.
28	Dewas Junior	1939	7	12	19	Figures not available.
29	Sangli	1941	15	30	45	Figures not available.
30	Jamkhandi	1940	12	24	36	Figures not available.

(XVI) RESOLUTION PASSED AT THE PRINCES' MEETING  
HELD IN BOMBAY  
April 2, 1947

1. This conference reiterates the support of the States to the freedom of the country, and their willingness to render the fullest possible co-operation in framing an agreed constitution and to all genuine efforts towards facilitating the transfer of power on an agreed basis. The conference reaffirms the resolution adopted by the general conference of Rulers and representatives of States on January 29, 1947.

2. It ratifies the general understanding reached between the States Negotiating Committee and the corresponding Committee set up by the Constituent Assembly in regard to the allocation of the States' quota of seats in, and the method of selection of the States' representatives to the Constituent Assembly, and on the fundamental points discussed at their meetings held on February 8 and 9 and on March 1 and 2, subject to the acceptance of the aforesaid understanding by the Constituent Assembly.

3. It reiterates the previous decisions of the States to adhere strictly to the Cabinet Mission's plan, under which the representatives of such States as may so desire, may join the Constituent Assembly at the appropriate stage when that Assembly meets, in accordance with the Cabinet Mission's plan to settle the Union Constitution, provided that such participation is preceded by acceptance by the Constituent Assembly, of the general understanding reached between the two Negotiating Committees in regard to the fundamental points and other matters referred to in the second resolution.

4. The conference is glad to note that Mr. Attlee's statement of February 20, 1947, further confirms the declaration made by the Cabinet Mission that paramountcy will cease at the close of the interim period. This means that all the rights surrendered by the States to the paramount power will revert to them, and they will be in a position, as independent units, to negotiate freely in regard to their future relationship with others concerned.

5. This conference reaffirms its previous recommendations in regard to internal reforms, and emphasizes the urgency and importance of suitable action being taken without delay, where needed, with due regard to local conditions.

6. In view of the element of urgency introduced by Mr. Attlee's statement of February 20, 1947, this conference authorises the Chancellor and the Standing Committee of the Chamber of Princes to conduct negotiations through the States Negotiating Committee or such other sub-committees as the Standing Committee may appoint, in regard to questions affecting the States in general : (a) with the Crown Representative in regard to matters relating to the lapse of paramountcy, and those arising out of the proposed transfer of power, so far as they affect the States ; (b) with the Interim Government and the competent British Indian authorities in regard to



matters referred to in Paragraph 4 of the Cabinet Mission's memorandum of May 12, 1946, on the States' treaties and paramountcy, provided that (1) these negotiations will be conducted in accordance with the resolution adopted by the General Conference of Rulers of January 29, 1947, and the instructions and resolutions of the States Constitutional Advisory Committee as endorsed by the Standing Committee of Princes and the Committee of Ministers ; (2) the results of these negotiations will be subject to the approval of the aforesaid States' Committees and ratification by the States.

7. This Conference requests His Highness the Chancellor to address His Excellency the Crown Representative with a view to ensuring early and satisfactory settlement by His Majesty's Government of questions relating to individual States prior to the transfer of power.

(XVII) LETTER FROM REV. J. J. M. NICHOLS-ROY TO THE  
CHAIRMAN, STATES COMMITTEE  
April 3, 1947.

With great respect, I hope this will come to you personally.

I write to you about the Assam States, namely the 25 Khasi States and the Manipur State. These are grouped together with Tripura State for the purpose of sending a representative to the Constituent Assembly to be one of the 93 members from among the Indian States.

The population of all these three entitles them only to one member.

The Bengal State of Cooch Behar is grouped with Sikkim. These will send one member to the Constituent Assembly.

The important question is—who could be a candidate and who should be the electors.

The principle adopted for big States is 50% are to be elected by the people and 50% by the Rulers ; but when a group of States can nominate or elect only one member as it is in the case of the Khasi States, Manipur State and Tripura State, the question is—who is entitled to be a candidate and who are entitled to be electors.

Our States' people in Assam surely want that a representative of the people should be elected by the people's organisations. We are definitely against any attempt to make only the Rulers to be electors and the candidates to be also, from among the Rulers.

If any compromise be necessary between the Bengal and the Assam States then Cooch Behar State and Sikkim State may elect a Ruler and let the 3 entities namely, The Khasi States, Manipur State and Tripura State elect a representative from among the people and not from among the Rulers. This can be done by the States' peoples' organisations.

I do earnestly request you to press this point for us when you meet the Negotiating Committee.

I shall be very grateful for your reply.

(XVIII) LETTER ISSUED TO ALL\* THE PRINCELY STATES  
IN THE VARIOUS GROUPS OF STATES BY THE  
CONSTITUENT ASSEMBLY OF INDIA

June 7, 1947

I am desired to inform you that the Joint Sub-Committee of the two Negotiating Committees have considered the difficulties arising from the fact that in certain cases where representation in the Constituent Assembly has been allotted to a group of States, some States have not yet taken a decision as to whether they would join the Assembly or not. This has held up the selection of the representatives of the group as a whole to the Constituent Assembly. The Joint Sub-Committee consider that there can no longer be any justification for letting this indeterminate position continue and that arrangements should now be made to speed up the selection of representatives. As the next session is expected to be held early in July, it is necessary that this process should be completed by the end of June as far as possible. It is requested that after the 20th of June, final steps may be taken forthwith for the nomination and/or election of representatives by States which by that date have made up their mind to join the Constituent Assembly. In the meanwhile of course it would be necessary to put in train the necessary preliminary arrangements. The Joint Sub-Committee have decided that the total representation in a group will remain unaffected by the fact that any member State chooses to stay out.

2. If you require any further information or assistance in regard to any matter connected with the selection of the representatives to the Constituent Assembly, I would request you to let me know immediately. The Joint Sub-Committee has decided that correspondence on these matters should be carried on with States directly by this office.

3. I shall be grateful for an acknowledgement of this letter.

\*Except Rampur, Benares, Frontier Group VI, and Amb, Chitral, Dir, Swat and Phulra.

# MINUTES OF THE MEETINGS OF THE STATES COMMITTEE OF THE CONSTITUENT ASSEMBLY January-February 1947

*[The States Committee appointed by the Constituent Assembly on December 21, 1946, for negotiating with the States Negotiating Committee set up by the Chamber of Princes, and with other representatives of the princely States held its first meeting on January 16, 1947 and elected Jawaharlal Nehru as its Chairman. During January-February 1947 the Committee had five sittings. The discussions were mainly based on several notes and memoranda submitted to the Committee by the Constitutional Adviser and the Constituent Assembly Secretariat, and by the princely States' representatives such as the Dewan of Baroda, B. L. Mitter (see Document Nos. 90-91). Amongst the important points discussed at these meetings were: the scope of the functions of the Committee, negotiations with the appropriate authorities in Bhutan and Sikkim, distribution of the 93 seats allocated to the princely States under the Cabinet Mission's plan, the method of selection of the States' representatives, the representative character of the States Negotiating Committee set up by the Chamber of Princes and the representation of Baroda in the Assembly. The minutes of the meetings are reproduced below.]*

January 16, 1947

*Present :* Pandit Jawaharlal Nehru, Maulana Abul Kalam Azad, Sardar Vallabhbhai Patel, Sir N. Gopalaswami Ayyangar, Dr. B. Pattabhi Sita-ramayya. Sir B. N. Rau, Constitutional Adviser, and the Secretary were also present.

The Committee unanimously elected Pandit Jawaharlal Nehru as Chairman.

2. With reference to item (2) of the agenda\*, the Committee accepted the view expressed in the note dated 8.1.47 by the Constitutional Adviser and decided that a letter should be sent accordingly to the Secretary of the Negotiating Committee.

\*This related to a letter from the Secretary of the States Negotiating Committee (not reproduced). B. N. Rau suggested that the issues raised should be discussed at the joint meetings.

3. There was discussion about the scope of the functions of the States Committee. It was considered that so far as the Negotiating Committee was concerned, the scope should not be widened, in particular so as to include the terms on which States would adhere to the Union. The view was expressed that if this was a matter to be discussed with the Negotiating Committee, there would be little left for discussion with the 93 representatives of the States. At the same time, it was also considered that certain States such as Bhutan and Sikkim have special problems of their own which they want to discuss with some competent body in British India, and that the present Committee might perhaps be such a body. It was finally decided that the resolution passed by the Assembly on 21.12.46\* should remain as it is and that a further resolution should be moved during the next session authorising the members of the present Committee to enter into discussions with States such as Bhutan and Sikkim. Sir B. N. Rau was requested to prepare a draft resolution.

4. The letter dated the 8th January from the Dewan of Baroda† was considered and it was decided that the Secretary should invite Sir B. L. Mitter to meet the Committee on the 26th of January at 3 P.M. in the President's room.

5. On the question of grouping of States for the purpose of representation in the Constituent Assembly, Sir B. N. Rau was requested to submit proposals which would be considered on the 26th after the conference with Sir B. L. Mitter was over.

### *January 29, 1947*

The Chairman, Pandit Jawaharlal Nehru, and all the other members of the Committee were present.

The Chairman referred to a letter written by the Secretary of the Constituent Assembly to the External Affairs Department asking who exactly are the authorities in Bhutan and Sikkim to whom he should communicate the terms of the resolution passed by the Assembly on 22.1.1947.‡ The point at issue was whether the Constituent Assembly should communicate directly with these two Governments or whether, as suggested by the External Affairs Department, the communication should be sent through that Department. The Chairman pointed out that there seemed to be no difficulty regarding Sikkim to whose Government Secretary could communicate the resolution direct. As regards Bhutan, the point was not of practical importance as a delegation from Bhutan was coming to Delhi in the course of next week. The Secretary was asked to arrange for a meeting of two or three members of the States Committee, in the first instance, with the

\*See Document No. 90(iv) *supra*.

†See Document No. 91(i) *supra*.

‡See Document No. 90(v) *supra*.

Bhutan delegation in consultation with the External Affairs Department. In the meanwhile, the Secretary, External Affairs Department, may formally communicate the resolution to Bhutan; and when the meeting with the delegation takes place, the representatives of the States Committee would also inform them of the resolution.

2. The Committee then discussed the point which, it was anticipated, the States Negotiating Committee would raise, namely, that the distribution of the 93 seats among the various States and groups of States was a matter exclusively in the jurisdiction of the States Negotiating Committee and not a matter for negotiation with the States Committee. It was agreed that the States Committee should put forward the view that this question is a matter for negotiation, as it is not possible to discuss the method of selection without going into the question of distribution particularly where most of the smaller States are concerned. If this point was not accepted by the Negotiating Committee, it was considered that, without prejudice to its stand on the matter of principle, the States Committee should ask the Negotiating Committee what its actual proposals were and, if necessary, put forward its own proposals. It was believed that by doing so the field of controversy would be narrowed very considerably.

3. The question of the method of selection was then discussed. Sir Gopalaswami Ayyangar suggested that the Committee should put forward the view that where there is a legislature, the legislature, consisting of both the nominated and the elected elements, should elect representatives to the Assembly by means of proportional representation. As the nominated element represents the Ruler, this system ensures that some nominees of the Ruler would get elected by the operation of proportional representation. It was pointed out, in the course of discussion, that the legislature in certain States is not representative, on account of the boycott of elections by popular elements. This is so, for instance, in Hyderabad and Kashmir. Sardar Vallabhbhai asked that the point should be taken with the States Negotiating Committee that the communal proportion on the basis of population should be maintained in the case of the 93 representatives as it has been in the case of British Indian representatives. No final conclusions were reached; and it was agreed that a further meeting should be held on the 7th February at 9-30 A.M. In the meanwhile, it was decided that the discussions on the 8th of February should be exploratory and that the points of view mentioned above should be discussed with the States Negotiating Committee.

4. On a matter of procedure raised by the Chairman, the Committee agreed that there is no need to have a Chairman for the joint meeting of the two Committees and that Pandit Nehru, as Chairman of the States Committee, which has arranged the joint meeting with the Negotiating Committee, would start off the discussion on the 8th of February.

February 7, 1947

*Present* : The Hon'ble Pandit Jawaharlal Nehru—Chairman, The Hon'ble Maulana Abul Kalam Azad, The Hon'ble Sardar V. J. Patel, Dr. B. Pattabhi Sitaramayya, Mr. Shankarrao Deo, The Hon'ble Sir N. Gopalaswami Ayyangar, Sir B. L. Mitter, Dewan of Baroda.

*In attendance* : Constitutional Adviser and Secretary.

To start with, it was agreed that the proceedings of this meeting should be regarded as strictly confidential as their disclosure at this stage might cause serious embarrassment to both the parties.

2. Sir B. L. Mitter stated that he had come to meet the Committee not merely with full instructions from the Ruler of Baroda but also with the authority of the State *Praja Mandal* which had fully approved of the proposals which he was placing before the Committee. Both the Ruler and the *Praja Mandal* were anxious to give the fullest co-operation to the Constituent Assembly irrespective of what the States Negotiating Committee did or did not do.

3. Before the actual proposals submitted by the Dewan of Baroda were discussed, the Chairman asked for the views of Sir B. L. Mitter on the following points:

- (i) What is his answer to the claim which the States Negotiating Committee are making that they are the sole authority with whom the Constituent Assembly may negotiate and that it is inadmissible for the Assembly to enter into discussions with individual States or peoples organisations?
  - (ii) Is the scope of the discussions between the States Committee of the Constituent Assembly and the Negotiating Committee or individual States to be confined only to the question of the manner by which the 93 representatives shall be sent to the Assembly or should the scope be wider as claimed by the States Negotiating Committee?
  - (iii) The States Negotiating Committee are understood to be taking the view that before the States can make up their mind as to whether they will enter the Constituent Assembly, they must be given assurances on the various points mentioned in the resolution adopted by the conference of Rulers.\* What is the view of Baroda on this point?
  - (iv) What is the view of Baroda on the resolution on objectives† adopted by the Constituent Assembly?
4. Sir B. L. Mitter's answers to the above questions were as follows:
- (i) Sir B. L. Mitter referred to paragraph 21 of the document of the 16th May‡ and said that that paragraph contemplated the States setting up a Negotiating Committee. In actual practice, however, the

\*See Document No. 91(iii) *supra*.

†For the text of the Objectives Resolution, See C. A. Deb., Vol. I, p. 57.

‡See Document No. 48(i) *supra*.

Negotiating Committee had been set up by the Princes' Chamber which is not fully representative. He also referred to the following passage in paragraph 14:

The precise form which their co-operation will take must be a matter for negotiation during the building up of the new constitutional structure and it by no means follows that it will be identical for all the States. We have not therefore dealt with the States in the same detail as the provinces of British India in the paragraphs which follow.

His submission was that having regard to both the above, the Constituent Assembly was clearly competent to discuss the question of representation with States which did not choose to have their views put forward through the Negotiating Committee. Pandit Nehru referred, at this stage, to the following extracts from the Press Conference held by the Cabinet Mission on the 17th of May 1946\* which supported the view taken by Sir B. L. Mitter:

*Question* : How do you propose to constitute the Negotiating Committee on behalf of the States? You have not indicated how that Negotiating Committee will be formed?

*Answer* : That is a matter for discussion with the States. It will presumably be for the States in the first instance to put forward a form for that Negotiating Committee and until that is gone into, I do not think it is for us to get any further. When you get outside what is called British India, and come to the States, you are dealing with bodies that are to a very large extent independent and it is not for us in a document to say how a Negotiating Committee shall be formed.

*Question* : Consultation between whom?

*Answer* : Between all the parties concerned.

*Question* : Presumably when you deal with negotiations with the States you must mean with the autocratic rulers concerned and not with the peoples of the States.

*Answer* : The whole matter has got to be considered at the time. We are not in a position to decide this in advance and that is why this is left vague. . .

(ii) and (iii) Referring to questions (ii) and (iii), Sir B. L. Mitter stated that we are now concerned only with a preliminary and procedural matter, namely, of deciding how the 93 representatives shall be sent up to the Constituent Assembly. It is only at a later stage when the 93 representatives have come into the Assembly that the discussions on constitutional problems can be taken up. This was quite clear from paragraph 19(vi) of the Cabinet paper. If the claim of the States Negotiating Committee that various points of substance other than the manner of selecting the 93 representatives were

\*See Document No. 48(iv) *supra*.

conceded, it followed that there was very little to discuss with the 93 representatives. It was quite clear to him that constitutional problems connected with the entry of States into the Union could only be discussed with the 93 representatives and not with the Negotiating Committee.

(iv) Sir B. L. Mitter stated that the Ruler of Baroda accepted in its entirety the resolution on objectives read with the speech of Pandit Nehru when moving it.

5. The Constitutional Adviser referred to the claim of the Princes that they were quite free, when the constitution had been framed, to come in or not to the Union Centre as they liked. Sir Gopalaswami Ayyangar referred, in this connection, to paragraph 15(1) of the Cabinet Paper which states that "There should be a Union of India embracing both British India and the States...". Sir B. L. Mitter stated that from his reading of the Cabinet Paper and the parliamentary debates, he thought that the States did have the right to decide at the final stage whether they would come into the Union or not. So far as Baroda itself was concerned, he was quite sure that Baroda would accept the constitution framed by the Constituent Assembly in which Baroda was represented.

6. The concrete proposals made by Sir B. L. Mitter in his letter dated the 8th of January 1947\* were then taken up. The following points emerged in the course of the discussion.

Baroda has 226 Attached States of which 62 are semi-jurisdictional and the rest non-jurisdictional. In response to a circular issued by the Dewan, 28 out of the 62 semi-jurisdictional States have signified their consent to be associated with Baroda in the selection of representatives to the Constituent Assembly. These 28 States have a population of a little over 2 lakhs out of a total population of 6½ lakhs of all the Attached States. Baroda was claiming only three seats. Explaining his proposals in detail, Sir B. L. Mitter said that every village in the State had a village *panchayat* of its own or shared a *panchayat* with certain other villages. He proposed to have 46 groups of village *panchayats*, each group having a population of half a lakh. These groups would elect 46 persons to an electoral college. The municipalities numbering 42 altogether would elect 12 persons to the college, making a total of 58. The electoral college could be elected in one month.

In answer to Dr. Pattabhi Sitaramayya, Sir B. L. Mitter stated that the *panchayats* were not elected by the people but nominated by the officials. He claimed that they had been in existence for 40 years; they consisted of leading villagers who were accustomed to run local administrations and he thought that his proposal was a good one. In answer, however, to Sardar Patel's question, he stated that he would have no objection to the *Dhara*

\*See Document No. 91(i) *supra*.



*Sabha* (Legislature) being used as an electoral college if the Committee preferred it; the reason why he had not suggested it himself was that it represented only 8% of the total population and therefore was not as representative as the electoral college he had proposed. In answer to the Chairman, Sir B. L. Mitter said that he would have no objection to all the three representatives, that is to say, the Dewan and two others, being elected by the elected and nominated non-officials of the *Dhara Sabha* by means of the proportional representation system.

7. The Chairman stated that it was not possible to come to a final settlement this morning in view of the discussions to be held with the States Negotiating Committee tomorrow and he suggested that the Committee might have a further meeting with Sir B. L. Mitter after the discussion with the States Negotiating Committee. This was agreed to by Sir B. L. Mitter.

*February 9, 1947*

MEETING WITH SIR B. L. MITTER, DEWAN OF BARODA

Sir B. L. Mitter stated that a suggestion had been mooted to the effect that Baroda should be associated with Rajpipla, Baria and some other Gujrat States in sending up representatives to the Constituent Assembly. It was decided, after discussion, that Baroda should stand by itself and should send three representatives. These representatives should all be elected by the *Dhara Sabha* (the State Legislature) on the principle of proportional representation by means of the single transferable vote, only the elected and nominated non-official members taking part in the election. It was also agreed that the accompanying press communique should be issued by the Secretariat of the Constituent Assembly.

ANNEXURE

(Press Communique)

The State Committee of the Constituent Assembly met Sir B. L. Mitter, Dewan of Baroda, and it was agreed that on the population basis Baroda should have three representatives in the Constituent Assembly. It was further agreed that these representatives should be elected on the principle of proportional representation by means of the single transferable vote by the *Dhara Sabha* (State Legislature), only the elected and the nominated non-official members voting. The official nominated members will not vote.

*February 24, 1947*

*Present* : The Hon'ble Pandit Jawaharlal Nehru (Chairman), The Hon'ble Sardar Vallabhbhai Patel, The Hon'ble Maulana Abul Kalam Azad, The Hon'ble Sir N. Gopalaswami Ayyangar, Sir B. N. Rau, Constitutional Adviser and the Secretary.

The proposals for the allocation of 93 seats among the States as agreed upon by the Secretariats of the Constituent Assembly and the Chamber of Princes\* and the note of the Constitutional Adviser† regarding the method of selection were considered and the following provisional conclusions reached :

- (1) All States' representatives should, wherever possible, come in through some form of election. In view of the composition of the States legislatures, this would not prevent nominees of Rulers from coming into the Constituent Assembly, but it was considered that the principle of election should be maintained.
- (2) The Committee should, in its negotiations with the States, aim at two-thirds being popular representatives.
- (3) In the case of groups of States, the following suggestion should be put to the States Negotiating Committee, namely, that panels of names should be obtained from the Rulers as well as from the local States' peoples organisations and these panels should be discussed either by the two committees together or by a sub-committee consisting of two or three representatives of each committee. It was thought that this may be the quicker and most feasible means of reaching agreement.
- (4) The telegram from the Maharaja of Cochin asking for two seats for his State was considered. The general view was that it would be difficult to accede to this request.
- (5) The distribution of the 93 representatives on the basis of communities was discussed. The Secretary was asked to prepare statements showing which States or groups of States may be asked to send up representatives of particular communities such as Scheduled Castes, Christians and Muhammadans.
- (6) It was decided that a further meeting of the Committee should be held on the 28th of February at 4 P.M. to consider the statements referred to in para. (5) above and any other points that might arise in the meanwhile.

\*See Document No. 91(xii) *supra*.

†See Document No. 91(xiv) *supra*.

PROCEEDINGS OF THE JOINT MEETINGS OF THE  
STATES COMMITTEE OF THE CONSTITUENT  
ASSEMBLY AND THE STATES NEGOTIATING  
COMMITTEE OF THE CHAMBER  
OF PRINCES  
February-March 1947

*[The first series of joint meetings between the States Committee of the Constituent Assembly and the States Negotiating Committee appointed by the Chamber of Princes were held on February 8 and 9, 1947. The discussion largely centred on the scope of subjects to be negotiated between the two Committees. The States Negotiating Committee urged that it would be difficult for the States to take a decision in regard to entering the Constituent Assembly unless certain assurances desired by the Princes were forthcoming. The members of the States Committee of the Constituent Assembly held that although these points could properly be discussed only by the Constituent Assembly itself, they had no objection to their being discussed in a friendly and informal manner. During the course of the discussions Jawaharlal Nehru clarified a number of points and attempted to remove certain misapprehensions which seemed to be causing concern to the Princes. The second series of joint meetings between the two Committees held on March 1 and 2, 1947, considered the question of distribution of the 93 seats on the basis of the recommendations made by the Secretariats of the Constituent Assembly and the Chamber of Princes. It was pointed out by the members of the States Committee of the Constituent Assembly that H.M.G.'s declaration of February 20 [see Document No. 84(i)] had introduced an additional element of urgency in the task of the two Committees and that it would be greatly to the advantage of the States themselves to send their representatives to join the next session of the Constituent Assembly and participate in the various committees set up by the Assembly. Though the suggestion was not immediately accepted by the States Negotiating Committee, the distribution of 93 seats as proposed by the two Secretariats was approved by the two Committees. They also agreed that not less than 50% of the States' representatives would be popularly elected by legislatures or electoral colleges. The uncorrected proceedings of the joint meetings of the two Committees are reproduced below.]*

February 8, 1947

*Jawaharlal Nehru* (welcoming the members): May I, on behalf of myself and on behalf of my colleagues, welcome you, Sir, and the other members of the States Negotiating Committee to this Joint Committee to which we have looked forward for so long. I am sure that, whatever differences there may be between us with regard to other matters, we are actuated by the sole desire to find a way as rapidly as possible for the freedom and independence of India. If we are actuated by that desire I am sure everything else becomes secondary and we can proceed to our work and come to conclusions. I do not exactly know how we shall proceed with this work. This is a kind of round table conference, but although there is no specific agenda on the table, I think the questions for us to decide are how and in what manner the representatives of the States can enter and participate in the work of the Union Constituent Assembly. If I may venture to make a suggestion, it is this. It would be better if we considered the specific point before us rather than if we discussed more or less academic aspects of the various questions, because obviously in regard to academic, if I may so call them, aspects there are differences of opinion and we may discuss them at length without really considering the actual issue before us. May I make the suggestion that we should concentrate on the specific issues before us, and in course of time we may discuss the other aspects, for I suppose we will meet not merely to-day but later and we will get nearer and nearer to one another. We shall thus succeed at any rate in getting over this preliminary hurdle.

*The Chancellor* (Nawab of Bhopal): On behalf of my colleagues and myself, I cordially reciprocate the welcome which you have so kindly extended to us.

Let me assure you that we have come here with the object of co-operating in the early achievement of the freedom of our country. We on our side, are actuated by no other desire than to help and stand for the greatness of our country. We feel that we can claim an appropriate and rightful place for the States in the Greater India of the future. We have no desire to adopt any partisan attitude or to intervene directly or indirectly in any controversy unrelated to the States.

The precise form which the co-operation of the States will take with the new constitutional structure is a matter for negotiations. Anything bearing on the Union Constitution resolved in the meantime, without our agreement, cannot in fairness be treated as binding on us or affecting our position.

The resolution adopted on the 29th January\* on the basis of which alone we are authorised to meet you has already been communicated to the

\*See Document No. 91(iii) *supra*.

Secretary of the Constituent Assembly; copies of it are laid on the table. This resolution collates the main points, in regard to the States, covered by or arising out of the Cabinet Mission's plan, on the basis of which the States agreed to conduct these negotiations. We trust that it will be possible, on this basis, to evolve a fair and acceptable arrangement in regard to the participation of the States in the new constitutional structure. We will co-operate fully to that end.

*Vallabhbhai Patel* (spoke in Hindustani, but at the request of Pattabhi Sitaramayya, gave a summary in English) : What I said was that we should not enter into side issues or matters which are not within the province of this meeting at this stage so that we may not be lost in controversies. We have come here as representatives of the Constituent Assembly which has accepted the State Paper, and similarly I hope the States' representatives have accepted the same document. The main point for us to determine in the preliminary stage is the method by which the 93 representatives of the States can enter into the Constituent Assembly and the distribution of these representatives among the States concerned. I do not think this is the proper time for entering into discussions on other matters except this to which our authority is restricted. The State Paper also contemplates that at this stage negotiations on other matters are not opportune. I suggest that at the proper time representatives of the Negotiating Committee or whichever has the proper authority may enter into negotiations on other matters.

*The Chancellor* : May I explain the position of the States in regard to that? Of course it is the intention of the States to adhere as much as possible to the various points in the Cabinet Mission's plan. That has been our attitude throughout. It is by virtue of that that we have met.

In the first instance I may point out that the question of the participation of the States in the Constituent Assembly was made clear by the Secretary of State for India in his declaration in the House of Lords. Then, as a result of the correspondence to which Sardarji referred, negotiations took place between the Negotiating Committee of the States and the corresponding body from British India on not only questions relating to the selection of our representatives, but on all other questions relating to the entry of the States into the Union Constitution or any other constitution that may be evolved afterwards. The States have made it clear to the Cabinet Mission and to His Excellency the Viceroy that they are quite happy and welcome the proposals for the Negotiating Committee and that when certain fundamental questions had been settled, they would consider the question of participation in the Committees and so on. So, in our judgment, certain preliminary negotiations must take place before the decision to enter into the Constituent Assembly can be finalised. That being the position, the Princes, in their resolution of 29th January 1947 have laid down certain points which, in their judgment were fundamental to their

entry into the Constituent Assembly and had also a bearing on the future Union of India. My instructions are that it should be our effort to have a preliminary settlement of these fundamentals before we could reach finality. These being my instructions, I have laid them before you.

*Abul Kalam Azad* spoke in Urdu.

*The Chancellor* replied in Urdu.

At the request of C. P. Ramaswami Aiyar, the Chancellor said : As far as the question of conducting these negotiations in a friendly spirit is concerned, there can be no doubt that we are all here in the most friendly spirit and we want to go forward. So far as the question of independence and freedom of our country is concerned, I think you will not find us lacking in this spirit and we want to reach that end as quickly as possible. But in regard to this matter we have taken instructions from the Chamber of Princes and I have attempted to explain that there are certain fundamentals which have got to be settled before we reach a decision to go into the Constituent Assembly. This is what the Secretary of State said on this point. He said : "There need be no anxiety since it is for them to decide freely to come in or not as they choose." This is with reference to the Constituent Assembly. Sir Stafford Cripps said : (Reads) "There will of course have to be close negotiations between the Negotiating Committee which the States have set up and the major British Indian parties both as to representation of the States in the Constituent Assembly and their ultimate position in the Union".

Further, during the recent debate in the House of Commons Sir Stafford Cripps said that, "the Negotiating Committee representing the States will settle outstanding matters with the representatives of the major communities in British India".

There are numerous other things into which I need not enter now, but we do not want to stick to the letter. It is essential, as far as we are concerned on this side, and we have no option but to ask for your views on certain fundamentals contained in our resolution.

*Pattabhi Sitaramayya* : I would like to draw your attention to a passage in a statement made by Lord Pethick-Lawrence shortly after the publication of the document. In answering a number of questions he made it clear in the following sentences :

We think it undesirable at this stage to predict precisely what the position of the States will be, and in these circumstances we have not put into this document the relationship of the States. It will be a matter ultimately for the persons who come to the constitution-making body on behalf of the States to agree to the exact nature of the form of entering the Union of India.

This was made within 24 hours of the publication of the statement. So it may be treated as representing the mind of the Mission. Of course, Your Highness quoted Sir Stafford Cripps in the House of Commons on the 18th.

*The Chancellor* : Lord Pethick-Lawrence.

*Pattabhi Sitaramayya* : Lord Pethick-Lawrence's statement does not refer to the ultimate position of the Union. It is only Sir Stafford Cripps that has done it.

*(At this stage Abul Kalam Azad spoke in Urdu, to which the Chancellor replied in Urdu.)*

*C. P. Ramaswami Aiyar* : The reason why the request has been made that certain specified and, to our mind, basic propositions should be agreed upon before we discuss the distribution of the seats and the method of selection for entering the Constituent Assembly, is this: When talking of the Cabinet Mission's statement and the various speeches into which I shall, if necessary, enter but which I think must be vividly present in the minds of every one here our construction of those speeches and statements is as follows :

Firstly, it is open to the States to enter the Constituent Assembly or not ;

Secondly, it is open to each State finally to accede or not—though I take it that that would not be a very difficult matter if the general principles are accepted;

Thirdly, the method of entrance into the Union should be the subject of negotiation and, if possible, adjustment and compromise.

If there had been no speeches or utterances negating or minimising certain aspects to which we attach much importance, it might have been left at this: that all parties, the Congress, the Muslim League and the Rulers have accepted the Cabinet Mission's plan and may therefore be regarded as working on the basis of that plan. But, varying interpretations of what the Plan will involve or imply or lead have been made. In the circumstances there was a fairly unanimous desire on the part of the Rulers and the Ministers that recently assembled that some of the basic factors of the situation should be placed beyond the reach of disputation or controversy so that the work may proceed. The resolution that has been recently passed was, from that point of view, essential in the opinion of the States. It is not my purpose now to go into the whole history of the matter.

In regard to the question that has been posited by Dr. Pattabhi Sitaramayya, it may be said that under the Cabinet Mission's plan, paragraphs 14 and 15 must be read along with paragraph 19. I am laying more stress on paragraph 14 because, after all, it is the Cabinet Mission's express plan that should be the governing factor ; and, although many statements have been made we should come back to paragraph 14.

Now, paragraph 14 makes it plain, after stating certain things about paramountcy, "they have at the same time assured us that the States are ready and willing to co-operate in the new development of India. The precise form which their co-operation will take must be a matter for negotiation during the building up of the new constitutional structure and, it by no means follows, that it would be identical for all the States. The precise form which that co-operation will take must necessarily involve the

presumption that all conditions precedent to co-operation must also be settled. And the mode of representation to the Constituent Assembly is a fact which emerges into importance if it is decided that the States enter into the Union and the Constituent Assembly. It is for that purpose that I submit that it has been decided by the Cabinet Mission that this may be regarded as a preliminary stage when the States would be in the preliminary stage represented by a Negotiating Committee.

It is made more clear by what follows in 19(v) that the representatives of the sections and the Indian States shall be assembled for the purpose of settling the Union Constitution, that is, the details of the Union Constitution, the powers and functions of the various bodies constituted by the Union Constitution, will have to be settled at that stage; but what is something precedent to the formation of the Union can only be a matter for preliminary discussions which at this stage are legitimate and in my humble opinion necessary. I do not definitely propose to deal with these various statements but I venture to suggest that if these statements are taken together, they are not confining the Negotiating Committee merely to the single object of deciding the constitution and the method of representation to the Constituent Assembly but all matters which are necessary for the purpose of bringing into existence a Union on terms which have been more or less outlined by the Cabinet Mission. In other words, as the Cabinet Mission had laid down, the various propositions resolved into these matters. Firstly, that the States can negotiate their way into the Union; secondly, the States will be sovereign as the provinces will be made sovereign and the residual powers will be in the States; thirdly that, for certain limited purposes a Union is created with definite objectives and carefully delimited functions. These are the general outlines. In other words, a limited Union Centre with specific powers is sought to be created and therefore the discussion that can take place in the Constituent Assembly will only deal with the preliminaries necessary to be settled before the limited Union Constitution comes into operation. Necessarily also, if there had been prior agreement or agreement as a result of negotiations as to the main—and according to me—conceded points, then the other questions will be part of the general framework in which those points that have been already conceded or agreed to at this stage will also have to be brought before the Constituent Assembly and enacted in a series of provisions leading up to a Union Constitution.

*Jawaharlal Nehru* : We are a Committee appointed by the Constituent Assembly and derive authority from the resolution passed by the Assembly constituting this Committee. The resolution authorises us to do certain matters and enter into certain discussions in determining the distribution of seats and the method by which the representatives of the States to the Assembly will be elected. That was passed on the basis of the Cabinet Mission's statement of May 16th because the Constituent Assembly is trying to follow precisely the lines laid down by the Cabinet Mission's statement.



Now, I do not see how it is possible for us to commit—to go beyond that authority—the Constituent Assembly—to matters which have not been referred to us. Sir C. P. Ramaswami referred to the Cabinet Mission's statement, paragraph 14, in which it says that the precise form which that co-operation will take must be a matter for negotiation during the building up of the new constitutional structure. Now, what is the process of the building up of the new constitutional structure? Surely, the Negotiating Committee cannot do the building up. The building up process comes in when the representatives of the various parts of India meet in the Constituent Assembly. It is misleading to take things apart from their context, consider them and come to decisions which cannot be co-ordinated. It is not clear to me what purpose the subsequent meetings of the States representatives in the Constituent Assembly is going to serve if it is attempted to come to decisions on all major questions.

*C. P. Ramaswami Aiyar*: Will you permit an interruption? Reference has already been made to Sir Stafford Cripps' statement. "It is for that purpose that they have set up a Negotiating Committee and I am sure the Committee will have the wisdom to work out an acceptable basis of cooperation in the Constituent Assembly." That is what they recommend.

*Jawaharlal Nehru*: Sir C. P. Ramaswami will no doubt appreciate that speeches made in Parliament are not to be construed as a statute governing our procedure this way or that way. The main thing is that we have to go by the Cabinet Mission's statement. Either we are considering something which is included in that statement or something which is not included in it. Obviously, it cannot be both. If it is included in it, we necessarily abide by it. There can be no dispute about it. If it is not included in it, it is either contrary to its spirit or something which is not contrary; if it is contrary, it should not be accepted. If it is something which is not necessarily contrary to it, it is worthy of consideration, but by whom and when? Surely by the representatives of British India and the Indian States meeting together and considering this point and arriving at some integrated solution as well as they can. Otherwise, of course, the process of constitution making will take this shape: that different points are settled by different representatives of different groups separately and there will not be any integrated solution but independent conditions may be laid down. I will submit to you, Sir, and to all those present that it is hardly possible to see a constitution if conditions are laid down subject to this and subject to that because then this difficulty in regard to integration arises. As I pointed out to begin with, so far as this Committee is concerned, we are specifically instructed to consider certain matters and have no authority to deal with any other matters.

*The Chancellor*: Before I ask Sir Ramaswami Mudaliar to speak, I appreciate that you are bound by this resolution. Nobody denies it. But you will appreciate also that I am bound by a resolution which was recently

passed. We have come here in an endeavour to try and come to some decision, some arrangement, some settlement whatever it may be, by these negotiations and find a way out of our difficulties and proceed forward. I quite appreciate you are bound by this resolution, but I think it will apply with equal force to us on this side. I will now ask Sir Ramaswami Mudaliar to speak.

*A. Ramaswami Mudaliar :* The Cabinet Mission's plan laid down very generally the ideas of the Cabinet Mission. In the course of their statement, you will find that the Mission have stated that they have not gone into details with regard to the States. With reference to what Pandit Jawaharlal Nehru said that speeches in Parliament should not be taken too seriously, I feel bound to point out how the authors have interpreted and are interpreting their statement, particularly when they say that the plan itself has not gone into details and the background of their statement is the discussions which they had with the States representatives at the time they were formulating the plan, which were necessary and helpful to understand the plan. They have suggested and they have put great weight on the Negotiating Committee. They have suggested that these two Negotiating Committees will meet and discuss certain things. It is true that they have not, in the plan itself, outlined the subjects for discussion. If one realises what a Negotiating Committee ordinarily means, surely the question of mere distribution of seats and how the States representatives should come into the Constituent Assembly is not such a serious matter for two reasons. After all, individual States have their own ideas of how the representatives should be appointed. At this stage, even if you enter into that question, there can be only a general plan regarding their representation. Negotiations, I venture to submit, on other matters cannot be carried on in the Constituent Assembly itself, *e.g.* negotiations which are for determining whether a State should enter the Constituent Assembly or not. As Sir C. P. Ramaswami Aiyar pointed out, there are two stages. First, the States have to decide whether to enter the Constituent Assembly or not. It is not merely a matter of what representatives come from the States or what type of representatives should come from the States. I should have thought it is a minor issue. The more important issue is the preliminary arrangements, agreements or understandings which enable the States to come into the Constituent Assembly. I do not want to refer to all the long discussions that were held in London in 1934. Many questions relating to the States came up then. I took a certain view at that time and I still take the same view; but those are matters which have been referred to and which have formed the subject of negotiation. The Cabinet Mission's plan and the speeches of members of that Mission have emphasised the preliminary stages of the negotiations. What are those preliminary stages? What is the position of the States? If they come in, what are the preliminary points that have to be settled? These are the basic points which have to be accepted by both sides before the question of the

States coming into the Constituent Assembly can be taken up. You, Sir, say that you have a mandate. We can go back to our respective authorities and get a wider mandate, if we agree that these negotiations at the preliminary stage are essential before the States can come into the Constituent Assembly. The point of merely how the representatives are to be elected is not a matter of such importance. I suggest that the preliminary stage that was envisaged in the Cabinet Mission's plan was a serious matter for serious negotiation. There are important vital matters which are the subjects for negotiation and which form the preliminary stage and which will enable the States to enter the Constituent Assembly. Once the States enter the Constituent Assembly, howsoever their representatives may be chosen, that is by consultation or negotiation, whoever they may be, they will deal only with the question of the subjects of the Union and the ancillary consequences of accepting those subjects as the subjects of the Union and all other matters relating to the Union itself. These can be decided and must be decided in the Constituent Assembly. But the preliminary matters which will enable the States to enter the Constituent Assembly are matters for negotiation. I venture to suggest, Sir, that the Negotiating Committees bound by their present mandates cannot go far, and that a wider mandate should be obtained so that we can discuss these questions.

*The Chancellor* : May I just read out to substantiate what you have said? On the 19th June when we were accepting this plan, I addressed His Excellency the Viceroy. The relevant portion of it is as follows :

The Standing Committee have decided, in response to Your Excellency's invitation, to set up a Negotiating Committee whose personnel is given in the enclosed list. The Committee did their utmost to keep the number small as desired by Your Excellency but they felt that it would not be possible for them to reduce that number. I shall be grateful if I am informed as early as possible of the time and place when this Committee is expected to meet, and the personnel of the corresponding Committee which may be set up by the representatives of British India on the Constituent Assembly. The result of these negotiations are proposed to be considered by the Standing Committee of Princes, the Committee of Ministers and the Constitutional Advisory Committee whose recommendations will be placed before a general conference of Rulers and representatives of States. The decision on the question whether the States should or should not join the Constituent Assembly will be taken by that Conference and will depend on the result of the forthcoming negotiations.

This was made quite clear to the Governor-General of India in response to his invitation to this Negotiating Committee and in the reply dated the 29th June, His Excellency wrote as follows : "The Cabinet Mission and I welcome the attitude which the Princes have adopted towards the plan which we have proposed for the solution of India's constitutional problem" — I have omitted certain portions—"I have taken note of the personnel selected

by the States to represent them on the Negotiating Committee. I will inform Your Highness, as soon as I am in a position to do so, of the time and place..." Therefore our position in regard to these matters has been from the very beginning consistent and we still adhere to this view.

*N. Gopalaswami Ayyangar*: Taking the Cabinet Mission's paper, we have got to recognise that the document of May 16th does not mention a corresponding committee of the Constituent Assembly at all. The suggestion for a corresponding committee was made to Your Highness by the Viceroy in his letter. No doubt, your Standing Committee of the Chamber of Princes had accepted that idea and nominated your personnel on your Committee. The main question, so far as our present discussions are concerned, is this: We have come here as a Committee of the Constituent Assembly. The Constituent Assembly, when fully constituted, will consist of the representatives of British India and the Indian States. At present only the representatives of British India have been elected to that body. To complete its personnel, it has got to get the representatives of the Indian States in. So far as the Constituent Assembly Committee is concerned, I would put it to you, Sir, that the only question that we have been asked to consider at this stage by the Constituent Assembly is merely how the representatives of the Indian States should be brought into the Assembly. No doubt you have referred to certain understandings or assurances which must be given to you before you decide to enter the Constituent Assembly at all. I do not wish at this stage that we should consider the merits of the contention whether the States should have an option in this matter or not. That is a fundamental point which we need not consider at this stage. But coming as we do as a Committee of the Constituent Assembly, even if we go back to the Constituent Assembly, that Assembly cannot give any of its committees plenary authority to decide questions of that kind that are referred to in the resolution dated the 29th January 1947. The points that have been placed there may be a matter for negotiations outside the Constituent Assembly between the Princes and the people of the States on the one hand and perhaps the major political parties on the other. The Constituent Assembly being constituted as it is, I suggest that we confine ourselves to the question of how the seats which have been allocated by the Cabinet Mission's plan should be distributed amongst the States and by what method the representatives of the States could come in. Apart from the main question of your deciding for yourselves whether you come into the Constituent Assembly or not, personally I think the Cabinet Mission's plan contemplates that you all come into the Constituent Assembly. I personally would suggest for your consideration that view. The question on which you should exercise your option is not whether you come into the Assembly but whether after coming into the Constituent Assembly you agree to federate with the rest of India or come to some other political arrangement with the rest of India as is mentioned in the Cabinet

Mission's memorandum to the Chancellor. Your Highness has already mentioned that the States are anxious to achieve the freedom and unity of India. That being so, I suggest for your consideration that you come into the Constituent Assembly and work with the others for the purpose of working out a constitutional machinery and having done that, decide for yourselves whether to federate as units or come to some other political arrangement with the new Government of India. That, I suggest, should be the main consideration, and let me take the other point also. It has been suggested that other matters have to be considered within these two Committees. It is not denied, it is not contested that these two Committees have to decide the questions that have been referred to us by our Principals. I suggest for your consideration that admitting as you do that the points that have been referred to us are matters for decisions within these two Committees, we decide them now and whatever machinery may be considered proper for negotiations on the other matters, those matters had better be taken up later on. Should we go back to the Constituent Assembly, the Assembly will say, "How can you have authority to decide questions of that sort? The decisions must be taken on the floor of the Assembly and not outside". I would very strongly press on the members of the other Committee to finish the business for which we have been authorised by our principals and leave the other matters to be settled later on.

Some passages have been quoted from the debate in Parliament. One very important speech was not put before us this morning. I refer to the speech which Lord Pethick-Lawrence made in the House of Lords. This is what he said :

The Cabinet Mission's proposals provide for the representation of the States in the Constituent Assembly on a population basis. This would give the States 93 seats out of a total of 389. The manner in which these seats should be filled was left for negotiation between a committee appointed by the Indian States and a committee appointed by the British India side of the Constituent Assembly. The States have appointed a Committee for this purpose. When a committee has been appointed by the British India part of the Constituent Assembly, negotiations on this matter can begin.

*C. P. Ramaswami Aiyar* : May I point out that at this stage, the question was only raised with regard to Pandit Jawaharlal Nehru's and Mr. Jinnah's visit and it was with reference to it that that speech was made. That speech was not with reference to the scheme as a whole. It cannot be regarded as negating or over-ruling or superseding the other portions to which advertance has been made. May I point out that it was in May 1946 that the whole question of Negotiating Committee was discussed in Simla? If it is permissible for me to speak about the discussion that took place, I think His Highness the Chancellor and myself made it clear to the Cabinet Delegation—at least I made it quite clear—that so far as the composition and the distribution of the States Representatives in the

Constituent Assembly are concerned, many of us really are not interested in it because we had come to a decision. On the basis of 93 seats, certain States are entitled to a certain number and some States had already stated that two-thirds or 50% would be nominated by the Legislature. It was definitely after they were aware that many States are not really vitally interested in this question and did not want to interfere in a matter which really concerns the grouping of States, they stated that the more important question for the Negotiating Committee was to negotiate the condition of entry into the Union. That was definitely stated and I have said so in the press. I do not know whether the Chancellor had any discussions. I have not discussed the matter. That was the position so far as I was concerned. I want to make it clear, it was definitely stated, I stated so far as Travancore was concerned, she would be entitled to six seats and of this four will be elected by the Legislature. That has been announced in the Legislature. I told the Cabinet Mission that I am not interested in knowing how many seats the other States get and how they send the representatives. It did not matter to me whether Kashmir or Gwalior or Mysore sent a particular number or how they sent them. Thereupon it was mentioned that that was not the sole or even the primary function of the Negotiating Committee as the conditions of entry into the Union would have to be discussed, whether they have aptly conveyed that or not. I think they have.

*The Chancellor:* What Sir Ramaswami Aiyar says is that the method of representation is not the only subject which will be the function of the Negotiating Committee but that they will have other discussions and other subjects was contemplated by the Mission. I will explain two points. He said that the Constituent Assembly must be fully formed before forming this Committee or something to that effect. I want to point out that we have been told by the Viceroy that the composition of the corresponding Committee from British India cannot be determined in advance of the preliminary session of the Constituent Assembly. Therefore it was contemplated by the Cabinet Mission that the preliminary session of the Constituent Assembly of British India will appoint this Committee to discuss with the Negotiating Committee. This is one point.

*N. Gopalaswami Ayyangar:* I was mentioning only what was mentioned in the Plan.

*The Chancellor:* In regard to the question of the States coming or their representatives coming, I think our reading of the State Paper is clear and definite. It does not contemplate that all the States should come into the Union though it expresses a desire that all may come or most of them at least may come. That is quite clear. In the State Paper it has been stated that either the States will come into the Union or come into political relations with India of the future. That by itself makes it clear that the Plan contemplated that it is a matter for the States to come into the Union

or not. I am not saying we do not want to come in. I am only pointing out that it has left to the States to decide whether they enter into the Union or come into political relations. I am only mentioning what is laid down in the State Paper.

I have also endeavoured to explain that the question of our entry into the Constituent Assembly is not yet decided by the States. I have also ventured to point out that the States have made it quite plain to the Viceroy who was the only body to whom we could address at that time that after negotiations are over in regard to certain fundamental matters then alone it would be time for the States to decide whether they go into the Constituent Assembly. This point was not disputed and is not challenged. It was published in the White Paper. We have adhered to that position and we feel that in order to enable us to take the decision whether we enter the Constituent Assembly or not, it is necessary that certain fundamental questions should be settled by negotiation and discussion amongst ourselves. It is for that purpose that we have come here to discuss these matters. I was quoting the question of 'most or all the States'. I am quoting from a letter from the Viceroy dated 12th May in which he says :

We think that most or all of the States would wish to take their proper place in the Indian set-up. We make it clear we have no intention of making proposals for the entry of States on any other basis than that of negotiation.

That is very important and that is what we are negotiating. The words I wish to draw your attention to are 'most or all'. It contemplates that it is not necessary for all the States to come in. Having said that, I would require you to consider that the questions which we regard as fundamental should be taken up first and certain assurances given to us in regard to those matters, which if satisfactory to the States will lead to further development and advancement. If that is not done, as I have already explained, and I fully appreciate the difficulties which have been pointed out in regard to the mandate given by the Constituent Assembly, we have also a mandate.

*Abul Kalam Azad* : (Spoke in Hindustani.)

*Raja of Bilaspur* : (Spoke in Hindustani.)

*The Chancellor* : I read out the conditions which the States instructed me to put down in a letter to the Viceroy on 19th May. It was made clear that the result of these negotiations which are now taking place are proposed to be considered by our Committee and then by the Princes. The decision on the question whether the States should or should not join the Constituent Assembly will be taken by that Conference and that will depend on the result of the forthcoming negotiations. There was no ambiguity in regard to our point of view which we made quite plain to His Excellency the Viceroy. In reply to it we have got the answer that we welcome this, which I have read to you and we appreciate the action taken

by you in forming your Negotiating Committee. After that on the details of the working of the Negotiating Committee, we have had no further correspondence except what we have quoted to you and certain debates and certain other declarations that have been made. This is where we stand. Neither from the side of British India nor from Panditji was any fresh proposal made.

*Jawaharlal Nehru* : Reference was made to the resolutions of the Constituent Assembly and of the Standing Committee of the Rulers' Conference. There is a vital difference between the two. If you follow up our resolution, all that it binds us is to meet together and discuss whereas the resolution of the Princes' Chamber binds us as to what the future character of the Constitution should be. It is a big difference and therefore, except to ask you to come and to discuss, we don't ask you to commit yourselves. We are asked to come and discuss these as well as other matters. Now, when we talk about the conditions of entry into the Union, we do not know definitely what the nature of the Union will be, except in so far as the Cabinet Mission says. If you have accepted that, well and good. Now we are trying to do something which obviously we are unable to do, quite apart from the resolution. We are trying here to lay down fundamentals of the Union, which as I said, in so far as the Cabinet Mission is concerned, we have accepted. In so far as it goes beyond that, it is a matter for discussion. So we are discussing something of a vital nature which could only be decided not by you and not by us, but between you and us. We have to discuss and arrive at results. As Sir Gopalaswami Ayyangar pointed out, it is not a question of our asking for more powers from the Constituent Assembly. It is tantamount to asking the Constituent Assembly to give up its power or its right to decide fundamental matters. I don't see how any Constituent Assembly can hand over such powers to a Sub-Committee.

Sir C. P. Ramaswami Aiyar also referred to various negotiations that have taken place between the Viceroy and others in the month of May. You know that during last year and even before the Cabinet statement came out, there were innumerable letters and interviews between various representatives of groups and parties. All of them do not fit into each other. There are contradictions in them. It is quite easy to point out contradictions, because there was always a tendency on the part of the Viceroy to say something which may please them to some extent. The other parties did not know what was being stated and we do not know what you were told. It is only when we meet together, we come back with different backgrounds. When the Cabinet Mission's statement came out, in a sense, it was not in continuation, it was sometimes in supersession of what had happened. What are we to do? Many proposals were made in Simla and Delhi and they were subsequently rejected. It does not help us very much as to what was said at that time or written by the Viceroy or by us. We



can act on the Cabinet Mission's statement where light was thrown upon it by the subsequent happenings. I have to act, apart from my agreeing or disagreeing on any matter. I have great difficulty in my mind as to how we can lay down certain important aspects of the Constitution or of the Union at this stage, as a committee. We simply cannot do it, and the Raja of Bilaspur told us that even at this stage we have to consider it informally. That can always happen. Individuals or representatives can meet together, come to some agreement and then that could be put forward before the full Assembly. It is an entirely different thing if some such agreement is reached out of the context of the Assembly and in a sense imposed upon them. Even if a good agreement is arrived at which probably is acceptable to the Constituent Assembly in the context of affairs, it is not going to be accepted, normally speaking, by the people, if the people feel that something is being imposed upon them. We have no right to go beyond that. My feeling is that the Committee is trying to impose something upon it. Two or three groups have different approaches. I submitted in my initial remarks that we might consider the practical steps that we may take. I submit the right thing is not to trouble ourselves with differences but to take specific things. I cannot say off-hand how far any group of the Constituent Assembly ultimately would be compelled to do this or that. We are all bound by certain compulsions which are the compulsions of events, but otherwise how far they will bind us, I do not know. Things may happen which would compel us. The first stage is for representatives to come here and meet each other and try to find out a solution. If unfortunately, solutions are not arrived at, I do not exactly know what will happen. It is for you and us to consider, and before making that attempt, we may not try to face the final difficulty right at the initial stage.

*The Chancellor :* I have the greatest respect for what you have stated. The position is this : that we were made to understand and what we could read from the context and correspondence of the Cabinet Mission's plan is that we believe that the Negotiating Committee which has been appointed has broader functions. We have to first deal with certain problems affecting our entry into the Constituent Assembly and then we have also to negotiate about the problems affecting our entry into the Union before we commit ourselves. That is how we have read this statement throughout and that is what I believe is the position. I don't think we are insisting or binding you to anything at this stage. If it is found necessary by you that after we have had our discussion certain proposals have to be taken by you to your own Constituent Assembly to be confirmed or to be given further instructions, we shall appreciate the position and similarly you will appreciate if certain new points arise during these discussions which we are not competent to answer, we will also take those things to our own committee and they will be answered as soon as possible.

As regards the question of discussion of these matters, I would like to draw attention to the fact that we have 6 or 7 or whatever the number is, which are contained in our resolution recently passed. You have only one item—that is the method of our selection of our representatives to the Constituent Assembly and we are here to discuss the fundamental problems. The only difference now seems to be that you propose now to discuss the question of method of representation. We would much rather have your views and your opinion and your decision if possible on other questions before we come to that question and that being the position, I think there should be no difficulty in dealing with the problem; the only difference seems to be what should come first and what should come afterwards. We feel that other matters should come first and this should be taken afterwards.

With regard to what has been said in the speeches or in the House of Commons, I would like to point out that I fully appreciate that many of those things are not very much binding on people but one particular matter on which we have laid emphasis is a statement by the Secretary of State in the House of Commons which was communicated to me by a formal letter by the Viceroy and therefore it becomes more or less binding on the Governor-General and the Viceroy, having been communicated as such by him in reply to a query made by me asking the Viceroy what our position was. He said, "After this statement which has been made, I think the position is fully clarified".

According to this statement, the States are perfectly free to decide when to come in. With regard to our position and your position during the discussions with the Cabinet Mission, there is vast difference. When you were having those discussions, and by you, I mean the British Indian side, you had those discussions for four or five months and you went into greater detail. As far as we are concerned, we discussed with them only the general outlines of the plan. We have not been given an opportunity to discuss the details. We were informed that these details would be discussed amongst yourselves by negotiating committees which will be appointed by British India and by us, and we welcomed this. We felt it would be better to discuss with our own countrymen rather than discuss it all with these people. We were in a different position, where we were more or less sovereign and independent and you were discussing certain other aspects of the question which I do not want to elaborate upon now. If you agree with this suggestion of mine that instead of taking this point first, we take up the other points first, and then come back to this question, we may make some progress. Otherwise, if you feel that the first thing to be settled is this particular point, then I suggest that as most of us feel a bit cold, we may have a cup of coffee, and we may be given a little time to consider, and then meet later, say in the afternoon.

*Raja of Bilaspur* : Your Highness, if I may make a suggestion, there

are only two points really which require consideration so far as I have been able to find out. Whereas your point of view seems to be how to distribute the seats or how the representatives are to be elected to the Constituent Assembly, the point of view of the States is how are they to be convinced that these 93 persons are necessary to be sent to fill in the gap in the Constituent Assembly before they know what the attitude of the corresponding Negotiating Committee is towards these fundamental points. Once there is satisfaction on these fundamental points, the other things flow from that.

*Vallabhbhai Patel* : For the first time the resolution of the Committee gave us an idea that there were other points to be discussed; we never knew that any other question was to be discussed.

*C. P. Ramaswami Aiyar* : May I suggest that there is a way of dealing with this matter which may avoid many of the difficulties that have been pointed out ? It is now perfectly clear from the discussions that have taken place that the two groups are not *ad idem* on the question of the functions of the Negotiating Committee. So far as the States side is concerned, we took it for granted, on the materials before us, that it was the function of the Negotiating Committee to discuss these wide questions some of which are beyond the competence of the Constituent Assembly and which may not come before the Constituent Assembly at all and which will enable us to come into the Union. On the other hand, it is quite clear from what the Hon. Pandit Nehru and others have said that they took it for granted that this Negotiating Committee came into existence, mainly or exclusively, for the purpose of making the distribution and the choice. Evidently, therefore, there has been a difference of approach and outlook due to the manner in which the conversations were conducted and the correspondence exchanged. Now, this question raised by the resolution of the Princes' Chamber has to be discussed at some time or other in order that the Princes may make up their minds to come into the picture. We are willing—I am speaking, I trust, for many of those present here, if not all—we are willing to have discussions, however informal in character to start with. I am confident that if discussions start on that basis, the range of controversy and differences will be much less than is anticipated. It may then be necessary for the British Indian Negotiating Committee to arm itself with powers to discuss and decide. At present, I understand, from what has fallen from both Sardar Patel and Pandit Nehru, that they feel that in regard to this matter their power is limited or restricted and that it may be necessary for them to arm themselves with a mandate to discuss those other matters. But there ought to be no objection to discuss what we consider fundamental points before we can come into the picture. We can discuss them informally so that we may find perhaps much more congruity, than differences in our approach to the problem. I am therefore suggesting that this is perhaps the best method of proceeding.

*Vallabhbhai Patel*: From what has fallen from Sir C. P. Ramaswami he said that he read certain speeches and that but for those speeches these questions could not have arisen. I think we should forget individual speeches in discussing these questions and it would not be right to judge these issues on expressions of opinion by individual people. We are meeting here together as representatives. It was suggested that they were not interested in the method of election or representation and this question was not important.

*C. P. Ramaswami Aiyar*: I did not say that. I repeated the conversation that I had...

*Vallabhbhai Patel*: From the beginning you held the view that this was an unimportant thing so far as you were concerned. Sir A. Ramaswami Mudaliar said that there were many vital questions that have been discussed in the State Paper so far as the States are concerned which are not incorporated and a comparatively unimportant thing as the method of representation is mentioned. May I say that those people who came here were very clever people and able people, and when they framed the State Paper they omitted the right things and put in unimportant things! Will anybody be able to show one place in the whole document where it is said that any vital question is to be discussed by these two Negotiating Committees? There may be private correspondence. These people who came here carried on negotiations in a way to set up a forum in which you, we and the other people may sit together. When they had done that, their work was finished. I believe this document has been framed in a spirit of bringing the parties together. But there is no element of compulsion in it. We cannot make a constitution by any compulsion. We cannot get the States in by compulsion, nor can we sit together by compulsion. The whole spirit of the document is one of voluntariness. Their object was somehow or other to bring us together. They talked one thing to you, they talked another thing to us, and they talked a third thing to a third party. But their intention was good. They wanted to evolve a machinery to which they could safely entrust the work and leave India.

That is an object which I can appreciate. If this document does not mention anywhere that the Negotiating Committee has to negotiate on these important matters and at the same time it mentions an unimportant thing—they are to decide this by consultation. There is no other thing which has to be decided by consultation. I agree that we shall not be able to solve these important questions by a majority vote in the Constituent Assembly. We can always decide these questions by mutual discussion. There is a good deal of suspicion and a good deal of loose talk. Nobody wants to do away with the States. There is no one responsible man who has said that we want to do away with the States. But we do not want to do away with the Constituent Assembly in this way. If it is suggested that the Constituent Assembly should be replaced by this Committee, it is a bad

beginning in the interests of the States as well. With all respect, may I say that if the smaller States or the smallest State wants its existence secured the method is not by getting an assurance from us who represent nobody except ourselves. The best way of prolonging the life of the State is to negotiate with their own people, and in that we can be of help. But if you force our hands and say, we won't come in unless you agree to this, that is a method which will cause irritation. When we go into the Constituent Assembly our representatives will say, "Who are you to make a barter of us? You have come making commitments and you want us now to agree to them?" Your 93 representatives will come in there. I do not think it is the right approach. I suggest this for your earnest consideration in the interests of the States. It would be suggested that these 93 representatives were simply elected to endorse the Constitution the fundamentals of which had been settled. Will that Constituent Assembly be taken seriously by anybody? Therefore these questions will be settled by discussion, negotiation at the proper time. None of us think or believe that we shall override the States. After all, out of the 93 representatives, no one believes that Sir C. P. Ramaswami or Sir A. Ramaswami Mudaliar, or Sir V. T. Krishnamachari will not be there or any one of you will not be there. We shall put our heads together by friendly negotiations.

*Mirza Ismail*: Is there any objection to the existence of monarchy? (Inaudible.)

*Vallabhbhai Patel*: No responsible person, no Congressman, has said "We do not want you". Don't have any unnecessary suspicion, which creates unnecessary difficulties.

*C. P. Ramaswami Aiyar*: The States need have no anxiety to decide to come in or not. It is for that purpose that they have set up a Negotiating Committee and I am sure that the Committee will have the wisdom to work out an "acceptable basis for their co-operation".

Evidently there is a difference of opinion as to the construction of the words "acceptable basis for their co-operation". Sardar Patel takes the view...

*Vallabhbhai Patel*: Co-operation between us at the proper stage. The line taken on the other side is...

*The Chancellor*: Not on the other side, but eminent lawyers on the other side.

*Vallabhbhai Patel*: They have taken this line, that this is the interpretation. With all respect I suggest it is not in your own interest. I am wholly with you in this matter—that nobody wants to do away with or touch your monarchy in whatever form it is at present, but I assure you that it will depend upon you. Its existence, its life depends upon you, not upon us. Therefore don't have unnecessary suspicions. If it is better to take our support now and we for fear of a breakdown of the Constituent Assembly were to agree to any such suggestion, it will not be to our interest or to

your interest. Therefore, I suggest the proper course would be to decide this important question which makes an opening for you to enter. Then we sit together as friends, all interested in one India, and in your interest and in our interest we draw up a constitution by agreement—not by quarrels or by majority vote. It is impossible to work a constitution of that type.

*The Chancellor* : I will only say a few words. We appreciate what you have said. We have all these points before us and we will consider them. The question why the Cabinet Mission, in our judgment, has not dealt in detail with our problem is laid down in the State Paper which reads as follows :

The precise form which their co-operation will take must be a matter for negotiation during the building up of the new constitutional structure and it by no means follows that it will be identical for all the States. We have not therefore dealt with the States in the same detail as with the Provinces of British India in the paragraph which follows.

*Jawaharlal Nehru* : In the previous paragraph they have dealt with British India. They have only dealt with the subjects for the Union and the other is the method of representation of the Provinces of British India. There is no other matter. They have not dealt with the States matter in detail.

*The Chancellor* : I only read their document.

*Jawaharlal Nehru* : You referred to certain conversations. We had numerous conversations with Sir Stafford Cripps, Lord Pethick-Lawrence and the Viceroy and the whole of the Cabinet Mission and, in the conversations, quite naturally, the question of the States did crop up. I do not remember a single instance where they said anything except this to me or to us : We are going to leave this matter entirely for decision between you and the States. Presumably they had in mind the political parties, because there was no Constituent Assembly at that time. Then the question was, if there was a kind of Assembly, how we should go there. At no time was even a reference made to any Negotiating Committee at that time. This only came into existence after the State Paper came out. Before us all the time it was only a question of how we should go there and having gone there, meet the representatives and discuss matters. Apart from all that, it is an odd position. I have not challenged the fact that you represent your States as Rulers. Your 93 representatives will come there. They may represent your viewpoint or some other viewpoint. We can say, at the most, we speak, let us say for the moment, on behalf of the present Constituent Assembly. We do not speak on behalf of the 93 people who may subsequently come in. You may speak partly for 93. But how can we commit the 210 people as they are now or the 93 others who may come in subsequently ? They might say, 'It is all right for you to do that. But we want to consider the matter afresh'. The point is this : You will be

justified in saying that you do not wish to commit yourself in the sense that you enter the Constituent Assembly without any commitments, but at the same time you wish to commit us when we have no authority to commit ourselves either now or in the future as to what the Constituent Assembly should do. As Sardar Patel said, the whole thing is essentially of a voluntary character—this Constituent Assembly. Supposing any of us, either as a group or as individuals, do not want to go in, we will not be forced to go there. Our whole object is that we should meet together and, in view of the developing circumstances, find a way out which is agreeable to the parties concerned. If, unfortunately, that way out is not found, then events would move and the compulsion of events will force us to do something. We must try to force events by finding a way out and the manner in which to find a way out is for us to meet the representatives of the States and the rest of India and formally and informally discuss these matters.

*Mirza Ismail* was understood to say, "So far as you in your individual capacity express appreciation of the point of view of the Rulers of the States that will go a long way to satisfy us. We need not pass a resolution".

*Raja of Bilaspur*: The position is very clear now. To my mind, perhaps what is needed is a meeting of the Standing Committee and subsequently of the Constitutional Advisory Committee and so on to come to a decision.

*The Chancellor*: I think it will be better if we meet in the afternoon after having gone through these points. I have only two words more to say with regard to one or two observations made by Sardar Patel. I quite agree that we may have been told certain things and you may have been told certain other things, but as far as we are concerned, we have endeavoured to adhere to what has appeared in the White Papers and what has been said in Parliament. For instance, I was only going to point out, subject to correction as I am speaking from memory—that the corresponding Negotiating Committee now from British India is, I believe, not mentioned in the Statement or in the...

*Vallabhbhai Patel*: Mention is "by consultation".

*Pattabhi Sitaramayya*: The first time we heard about it was in reply to Your Highness's letter at page 65 of the White Paper.

*The Chancellor*: The position as it stands now is this. You have agreed to form a Negotiating Committee and discuss with us. That is the point which has emerged from the correspondence. As far as the question or certain questions being put for the first time...(inaudible.) I have already answered it by saying that those things are contained in the White Paper. I have not referred to anything which is neither in the White Paper nor in the statement. I have not referred to any extraneous points this morning, nor have I referred to any of the speeches made. When reference was

made by one of my colleagues to speeches, it was mentioned only in passing to show what had brought about this, and we were only relying on what was on record. Having made this position clear, may I suggest to you that we may adjourn now and meet at 3-30.

*(The meeting then adjourned and reassembled at 3-30 p.m.)*

*The Chancellor :* May I ask a few exploratory questions? The matters which we were discussing, particularly those which are in the resolution which is before us, are not matters which relate directly to the Constituent Assembly because they are matters relating to the monarchical system and the internal situation and so on and so forth. I have tried to explain to you the position of the Indian States. They have not yet taken a decision in regard to their entry into the Constituent Assembly. They are awaiting a discussion in regard to certain fundamental questions before they can enter. Some of these fundamental questions are now embodied in that resolution. There may be others of lesser importance which will require discussion, but I gather from your side that those matters are outside the scope of the mandate given to you. Perhaps it is so. But we do want to have negotiations, and to have assurances in regard to certain matters simply because there are suspicions and doubts created in the minds of many of us in the States for various reasons into which I need not go. Would it be possible to continue discussion on these fundamentals, or would you have some other authority to discuss these things?

*Jawaharlal Nehru :* What other authority, individuals or a committee?

*The Chancellor :* A committee.

There are several matters of vital importance to the States before they decide to go into the new constitution making machinery. The States Committee are also bound by their mandate. We need satisfactory assurances on the fundamental problems laid down in the resolution on the basis of which they have set up a corresponding committee by the British India section of the Constituent Assembly. How can we proceed with these negotiations?

*Jawaharlal Nehru :* Negotiations about what matters? It is difficult to say what the Constituent Assembly may or may not do. I can tell you that we have got our limitations, what subjects we cannot touch, they being outside our purview. The units of the Union would have a very great degree of autonomy. Now, the Union constitution will deal with Union subjects and common matters concerned. So far as the other subjects are concerned, the provinces and the States will be sovereign. Naturally, in a Constitution you cannot have hard and fast lines. All these are matters which normally would have to be considered as they arise. Now obviously, the question of monarchy is not the concern of the Constituent Assembly at all.

Dr. Pattabhi Sitaramayya wished to raise the question of the linguistic provinces in the Constituent Assembly. We tried to discourage it as it is



not a matter for the Constituent Assembly. It is a matter for settlement after the Constitution is set up.

*Maharaja of Patiala* : There are doubts and suspicions among certain members of the Negotiating Committee and of those whom they represent. I do not think there are two opinions with regard to the points raised. I would like to suggest that, if these doubts are cleared, it would go a long way in solving the difficulty that we are faced with at the present time.

*Jawaharlal Nehru* : Take these two matters, the question of monarchy and territorial integrity. These are left out of the constitution.

*Mirza Ismail* : All that is required is mutual trust.

*Vallabhbhai Patel* : There is no desire on our side to encroach upon your rights. No constitution will work without the common consent of the majority of the units. If there are small units who do not come in, then they also cannot be coerced except by moral approach and public opinion. Events may force them.

*The Chancellor* : So far as the territorial integrity of the States is concerned...

*Vallabhbhai Patel* : There is not the slightest intention to interfere with that.

*Jamsaheb of Nawanagar* : Paragraph 3 of the Objectives Resolution...

*Vallabhbhai Patel* : Perhaps it is not properly worded or misunderstood.

*Jawaharlal Nehru* : Para 3 reads :

Wherein the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the law of the Constitution, shall possess and retain the status of autonomous Units, together with residuary powers, and exercise all powers and functions of government and administration, save and except such powers and functions as are vested in or assigned to the Union, or as are inherent or implied in the Union or resulting therefrom;

Obviously the units of the Union must have a certain area. The point is what a unit should be. In regard to the provinces, they are obvious units. In regard to some States they are obvious units. In regard to others, grouping and adjustments will be necessary. The question comes up of what a unit is. It may be a group of States. It is not a question of changing the boundaries of States, but of constituting a unit. When the Union is formed, presumably, there will be less of units. And therefore it seems that the units will have to be indicated. The approach to that question will be by consent and co-operation.

*N. Gopalaswami Ayyangar* : It is not intended that any decision of the Constituent Assembly is going to be taken merely by the strength of the brute majority. It will be by consent and co-operation.

*Maharaja of Patiala* : If that is the intention, put it more clearly.

*Vallabhbhai Patel* : Is there any possibility of any boundaries of even the smallest State being delimited by the vote of the Constituent Assembly ? Can it be enforced ? It cannot be done. The idea is to fix a list of units in the Constituent Assembly. Now, these units will have to be made, any

changes in boundary being by consent. If you form a group, that will be a unit. All the States concerned will have to agree and with their consent and with our consent—we also have to agree—we form a unit. Otherwise we cannot do it. There is not the slightest idea of encroaching upon any State.

*Jamsaheb of Nawanagar* : Many of them have interpreted it that way.

*C. P. Ramaswami Aiyar* : The confusion arises in this way :

Wherein the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the law of the Constitution.

That is after the Constituent Assembly has finished its work. Therefore, as it is worded, there is no doubt that the Constituent Assembly is inferentially granted jurisdiction to change boundaries. Probably it is not intended.

*Vallabhbhai Patel* : Even after that, there shall be a clause that it will be by consent.

*Jawaharlal Nehru* : Some territories are not in India at present. Even they can come in. The Constitution has to provide for such contingencies.

*The Chancellor* : May I ask, if the intention is absolutely certain, why not make a definite declaration about it ?

*Jawaharlal Nehru* : About what? A constitution will have to have clauses dealing with possibilities of changes. Every constitution will have a provision for changing even the constitution itself. Nothing can be rigid about a constitution. It is always subject to changes. So, in regard to change of boundaries of units, there must be some provision in it.

*The Chancellor* : When a certain State enters a certain constitution, it becomes a *fait accompli*. Later it may find itself in a hopeless minority. Therefore it is essential that these things should be settled now.

*Raja of Bilaspur* : Even if a majority of the States did agree, there might be a minority which would be rushed into the inevitable simply because they were small and there might be others who by the sheer force of events would have no other go but to co-operate with whatever union that might be formed at a certain stage. I think there was the idea of what would be a schedule of units in this new Union. That is one of the functions at this stage to describe what is a federal unit. Is that the intention ?

*Jawaharlal Nehru* : Sometime or other, we will have to consider it.

*Maharaja of Bilaspur* : In other words, is that a matter for negotiation or is that a matter for settlement in the Constituent Assembly ?

*Jawaharlal Nehru* : Difficulty arises with regard to smaller States. Obviously they are not big enough to form units. How to proceed, I do not know. Various proposals have been made for consideration. Persons most concerned must have a very large say in the matter. All these questions have nothing to do with change of boundaries. The whole thing is on a voluntary basis. This resolution took a long time in drafting. Procedure never arose during the whole course of the drafting. The Constitution will have to provide for future adjustments as all constitutions provide.

*The Chancellor* : I do not for one moment dispute that there was no intention. But doubts have arisen. We want some assurance in these matters.

*Jawaharlal Nehru* : How can we take this question ? Exactly how do you proceed about it ? Take the Provinces which can be federated. It is an intricate question to be considered by those concerned. I can say that the question does not arise at this stage. We have to consider it fully when we come to sections presumably by consent.

*The Chancellor* : When the question does arise, it is not a question for the Constituent Assembly to decide.

*Jawaharlal Nehru* : It may be for a State to say it is not coming into the Constituent Assembly. I can understand that. What a federating unit is, is a matter for the Constituent Assembly to decide.

*Vallabhbhai Patel* : What any unit should be so far as federation is concerned, it is the primary function of the Constituent Assembly.

*C. P. Ramaswami Aiyar* : I think we are drifting somewhat away from the main purpose of the discussion. The main question now is whether H. H. The Nawab of Bhopal's submission that there are certain matters which might somehow and by somebody be decided—doesn't matter whether we decide it in this Committee with this mandate on the other side or otherwise—let me, in order to put matters beyond controversy indicate what for instance the resolution asks on behalf of the Rulers. For instance, the entry of the States shall be on no other basis than that of negotiation and the final decision shall rest with each State. That is a matter which is beyond controversy and the thing has been laid down by the Cabinet Mission and has been generally accepted.

*Pattabhi Sitaramayya* : Why want it in writing ?

*Vallabhbhai Patel* : Why do you want us to be humiliated when you think it is an absolute fact. No dispute can arise.

*C. P. Ramaswami Aiyar* : It is because some of these absolute facts have been canvassed.

*Vallabhbhai Patel* : If you say it is canvassed, it is very difficult to remove those doubts. When we say that we accept this document *in toto*, absolutely in its entirety, and when you say no other interpretation is possible, why do you want us to say anything about it?

*C. P. Ramaswami Aiyar* : It is not a question of any other interpretation being possible or not. There is no question of humiliation. I am sorry the expression has been used. There are serious propositions.

*Jawaharlal Nehru* : What are the propositions ?

*C. P. Ramaswami Aiyar* : The final decision shall rest with the States. We have said that. We have endeavoured to put into this resolution what we consider are the things that are conceded on all sides. No question of humiliation and no question of forcing our point of view.

*Jawaharlal Nehru* : So far as the Constituent Assembly is concerned, it is obvious that the state of things as they are in India is the result of

operation of forces and nobody can stop the forces simply by passing a resolution. Are we discussing the Constituent Assembly or are we discussing the muzzling of forces of India ?

*C. P. Ramaswami Aiyar* : Nobody suggested that. We are asked to come into a body with certain limitations or with certain privileges. We should know what is the background of the picture. We have endeavoured to point out what this background is as we understand it. You say we have never canvassed it or contradicted it, as forces stand at present. It may be that new forces may come into operation which may negative all these things. But as at present, it is not our intention to go beyond these things which we consider are essential. Then we shall discuss the resolution.

So far as we are concerned, I think there is no getting away from the fact. These are essential points on what basis we come into this Union. These we say, are contained in documents which substantiate our contention. We only ask you to examine those points. If there are things which are unreasonable, we are willing to discuss with you and change our minds and take our mandate. If you consider there is nothing unreasonable and nothing beyond what is contained in some State Paper or other or in the state of things, then we say we shall discuss with you other matters.

*Pattabhi Sitaramayya* : No consent is required.

*Jawaharlal Nehru* : I hold certain views about States. I have expressed them strongly and I propose to express them strongly in the future. I want you to have perfect freedom. I want to retain my perfect freedom. There should be no misunderstanding about it. I think the States are anachronisms in India as they are and I propose to say so in future. But I do not think my place in the Constituent Assembly is a place to say that and I do not propose to say that. I want to be straightforward and to function in the Constituent Assembly accepting the State Paper as it is. That has nothing to do with my future of India or of the world. I believe in a World Order. I believe in all manner of things and I am going to speak about it. I think some States are forward, some are hopelessly backward. There are no civil liberties there. Am I precluded from saying so?

*C. P. Ramaswami Aiyar* : Nor am I precluded from saying that some political parties are totalitarian.

*Jawaharlal Nehru* : Absolutely. We are discussing about the Constituent Assembly, what it should do and what it should not do. It is a voluntary structure. It is obvious as things are that any State or for the matter of that, any province, if it chooses to walk out, really walks out, at any stage, in the beginning, middle or at the end. What happens afterwards has nothing to do with the Constituent Assembly. The States may come in or may not. We cannot compel them if they did not come in at any stage.

*C. P. Ramaswami Aiyar* : Because we want to come in, we are entertaining legitimate apprehensions as to certain things which we consider important and we think you would not dispute them.

*Vallabhbhai Patel* : At what stage did we ask you to say that before you come you should agree that you should never go out. On the contrary, you want us to say, to give in writing that the States are the final Judges. We do not ask you to agree to anything, nor should you expect us to agree.

*C. P. Ramaswami Aiyar* : Apparently we have come under a misapprehension because we came thinking that we will discuss these matters. If it was a question of mere selection, we should not have raised this question. We have been definitely told that these other points also arise for discussion.

*Raja of Bilaspur* : I think the two Negotiating Committees are primarily designed by the Cabinet Mission to come to some sort of an agreement about the future of India. The Cabinet Mission having given its award and gone, I think what brings us together, at least what I think is, they having gone, the gap is going to be filled by both of us, who are moved by the same desire. In that coming together, if there are any misapprehensions, if there are any doubts, they ought to be cleared and set at rest. I do not imagine that any fundamental points arise in the resolution or we seek adherence word for word from the British Indian side of the Negotiating Committee. It is perhaps what I might call a misapprehension created in the minds of the States which needs clarification. If I could proceed a little further, even if such a statement were made today that all these fundamentals are guaranteed tomorrow the Constituent Assembly may be at liberty to say that they do not accept it.

*Vallabhbhai Patel* : What is it that will bind the State to anything ?

*Raja of Bilaspur* : So, possibly there is misapprehension on both sides. We may say one thing on one side and another thing on the other side and get to no common ground.

*The Chancellor* : We belong to this country. We know each other better. You also know that in the States for various reasons, I do not mention them here, there are certain suspicions, misapprehensions, doubts, fears and all sorts of things which can mar a smooth settlement. There are some Indian States, some Princes, may be quite a large number, may be a few, who are more anxious perhaps than their other brothers to have a settlement of these problems with you. That being the position, we have to examine from the point of view of our difficulties, our needs and requirements. We have to carry a large number of States with us if we can do so openly or by removing doubts and suspicions. There are certain things done in this world which in some circles may be regarded as unnecessary, but in others considered necessary. We have to deal with the general question. Some provisions may mean nothing to some persons, but to some persons they may be of very great significance. The ultimate aim will be the same namely to reach our goal and in reaching our goal, we ought to make such provisions either to satisfy another person or to satisfy ourselves. I would respectfully point out that there is no harm in doing so. That is

one of the reasons why some provisions, although they may be obvious to certain persons, have been made in this resolution.

*Abul Kalam Azad* : (Spoke in Hindustani).

*The Chancellor* : I am trying to avoid reference to the real cause of this: I do not want to say that. The resolution passed by the Constituent Assembly *ex parte* has been perhaps responsible for taking this course. This is suspicion No. 1. There have been instances, I would respectfully point out, of statements by irresponsible persons which have given cause for these doubts and suspicions. If I may say so, the presence of some power here for the last 150 or 200 years has been instrumental in creating this suspicion in the mind of both parties. Therefore, there are various reasons which have led to this thing.

*Abul Kalam Azad* : (Spoke in Hindustani).

*C. P. Ramaswami Aiyar* : Provided that friends on the other side are prepared, I shall go through this resolution and point out its innocuous character. I have been told by a very respectable friend of mine that there is no point in it.

*Vallabhbhai Patel* : It is not innocuous. It is an ultimatum. It should not have been done in that spirit. You should have called us and discussed it. You have not done it. You again started this morning in the same spirit in which you drafted the resolution. If you again argue in that same spirit...

*C. P. Ramaswami Aiyar* : Let me make myself clear. Either this resolution definitely followed from things which are already conceded or should be conceded, or it is considered innocuous. In either case these resolutions are binding on us here and therefore we cannot go away from this resolution or deal with the question ignoring this resolution. That is why I said I was not taking up the time of this Assembly. So far as we are concerned, we have come here in order to point out that this resolution may be accepted and then we might go on discussing other matters.

*Vallabhbhai Patel* : If that is a condition for discussing other matters, there is a deadlock. If it is your view that you are not going to discuss other matters unless this is discussed, if that is your spirit, there is a deadlock. We have made the position clear that every question can be discussed at its proper time in a spirit in which there is no compulsion. But still you say we compel you to do this at present. Then there is a deadlock.

*The Chancellor* : There is no question of compulsion. We should discuss matters in the best possible spirit.

*Jawaharlal Nehru* : You may remember some months back, before the Constituent Assembly met, a suggestion was put forward that these matters may be discussed informally. In fact the sole matter before us was how the States were to come in and it was suggested that we might meet

informally. Unfortunately, that course was not followed. Since the Constituent Assembly met, the first thing that came up was that we should consider these matters informally. Unfortunately we could not do that. The Constituent Assembly and this Committee have been waiting for the last so many weeks since it was formed, 6 weeks or two months, to discuss it informally or formally. It was not our fault. We were told that the States were not willing to discuss it. Now we are presented with a long resolution which I may say is a very offensive resolution to every self-respecting individual and to the organisation, the Constituent Assembly. It is an exceedingly offensive resolution. Apart from the merits of it, the method of its presentation without any reference, was not friendly.

It was the method of putting a barrier which could not be crossed, of making a solution more difficult, quite apart from the things contained in the resolution. Actually, many of the points in doubt can be explained to the satisfaction of all. Normally all of us want to go together, but if things are put in such a way as to be a barrier, then it becomes very difficult even at the first stage.

I submit that of the two matters suggested, one about monarchy and territories, that does not arise at all. Then you have referred to the resolution passed, that it was passed *ex-parte*. It is *ex-parte* in the sense it was passed without the representatives of the States being present. Under the constitutional scheme, the States representatives could not be present then. It is neither your fault nor our fault. But the whole object of that resolution would have been defeated if not passed at an early stage.

We wanted to have some kind of blue-print of what we were looking for. We have to deal not only with individuals; we have to deal with vast masses of people in India. We have to deal with a situation in which, if I may say so, if we did not try our utmost, the whole of India would be a cauldron within six months. It would have been a cauldron within the last six months—and I don't know whether it will not be a cauldron in the next six months—due to the economic situation. It is not a matter of my agreeing with my colleague here or my colleague there; it is a question of vast forces being at work. We are trying to control them and direct them into particular channels. In the last six months, owing to various factors, this situation might have boiled over. We want to come to peaceful arrangements whereby British rule may cease and we want to come together to evolve a constitution satisfactory to all—if not to all, because in a vast country like India it is difficult to satisfy everybody—at least to a majority of our people and major parties. We hope to succeed and we will try our best. So we have passed this resolution. If I may put it to you, if we had not passed that resolution, then apart from the merits of the resolution, the Constituent Assembly would have come against an initial barrier in public opinion in India, and I know something about the mass opinion in India, which would have been very difficult to pacify. As

it is, public opinion is far more advanced in the Constituent Assembly; it is a revolutionary type of opinion. It is always alive and functioning, whether it takes the shape of strikes, *hartals* or otherwise. But all the same it functions. So we have to put some ideal before them and we took the greatest care to put that both in terms of the Cabinet Mission's statement and also in such a way as not to alienate the rights of any community, State or province, and in the broadcast shape imaginable. I don't think that we have come in the way of any single State right or provincial right or community right. Naturally, it is a broad resolution and it is a resolution which, we thought when we drafted it and afterwards, cannot possibly be objected to by anybody except such persons as may object to the elimination of British rule from India, which of course, is a most patent unpatriotic objection. It is possible that some phrases in it might give rise to some misapprehensions, but we can clear up such misapprehensions. That is not a difficult matter. After all, whom do we represent? Do we gain anything by it? I don't gain anything by it. I have no personal interest in it. Perhaps I represent an idea or a group, but on that score I cannot tie down that group—whether it is the Congress or the Constituent Assembly. It is for them to decide. We talk of the Constituent Assembly being a self-governing body. It is so only in the sense that being constitutionally established nobody can interfere with its decision. Those who do not join it cannot be forced to join it. They cannot be forced to accept its decisions, but by compulsion of events they may eventually be forced to accept its decisions. I submit that this kind of approach of laying down various conditions precedent to entering the Constituent Assembly is not a helpful approach. It only creates difficulties and in fact very probably it creates an atmosphere against the very things that we want done and against the very things contained in this resolution. If it is thought to be imposed, then this vast public opinion will react against it. I try to control that public opinion to the extent I can, but I cannot control it more than that, nor do I wish to control it. You are putting me in a difficult position; you are putting our Committee in a difficult position and also the mass opinion which the Constituent Assembly represents, and we to some extent represent.

The Chancellor consulted Sir Ramaswami Mudaliar, Sir C. P. Ramaswami Aiyar and Sir Sultan Ahmed if they had anything to say. No comments were made.

*The Chancellor*: May I suggest, Panditji, that we meet, if it is not inconvenient to you, again to-morrow?

*Raja of Bilaspur*: Could that cover more ground?

*The Chancellor*: Panditji has made a declaration of his views, both as regards the resolution and the method that, in his opinion, we adopted. and in regard to the action which, as far as I could understand, he contemplates although he has not given any decision.



*Jawaharlal Nehru* : There is no question of decision.

*The Chancellor* : I mean, we have not reached anything final. So I think we may review the whole situation and we may be able to see you to-morrow.

*Vallabhbhai Patel* : All right, suggest the time.

*The Chancellor* : Any time; we are at your disposal.

*Jawaharlal Nehru* : Morning or afternoon, whichever you prefer. To-morrow is Sunday.

*The Chancellor* : You want a day off ?

*Jawaharlal Nehru* : No, being Sunday, it is more convenient for us. If it suits you, let us meet to-morrow morning?

*The Chancellor* : Yes, I suggest 11 o'clock.

It was agreed that the conference should commence at 11 A.M. on the 9th February, 1947.

*The Chancellor* : Are we going to say anything to the Press ?

*Jawaharlal Nehru* : No, except that we are meeting again to-morrow.

*Vallabhbhai Patel* : We can say that the discussion is continuing and that we are meeting to-morrow.

*Jawaharlal Nehru* : Of course, it is not for me to say that, but none of us say anything about our talks here, to the outside.

*Maharaja of Patiala* : Yes, nothing.

### February 9, 1947

*The Chancellor* : May I say something? I suggested the adjournment last evening because my colleagues and I were anxious to avoid a deadlock and last evening we gave this matter our further consideration. We feel that according to the plan under which we are working, there have to be close negotiations in regard to several matters of vital importance to the States. These negotiations have to be conducted in the preliminary stage by the States Negotiating Committee and cannot wait till the Constituent Assembly reassembles under paragraph 19 (vi) of the statement of 16th May to settle the Union Constitution when the States representatives are expected to join the Constituent Assembly if they so decide.

The States Negotiating Committee is bound under its instructions to negotiate in regard to these matters and to secure a satisfactory settlement of the fundamental propositions involved before the States could be in a position to decide in regard to their participation in the new constitutional structure.

The States Committee are prepared to take up these matters with your present Committee which has been set up by the British India portion of the Constituent Assembly as soon as you are in a position to do so, or, as I suggested yesterday, with any other body from British India which has the authority to discuss and settle these matters to our satisfaction, or

if you so desire, to discuss and settle them informally at some convenient date and in the meantime we may postpone the present discussion.

*Maharaja of Patiala* : Yesterday we had some very useful discussion and I think personally that it would be very helpful to all of us if we have a brief resume of the position as it emerged yesterday. This to my mind would help to clarify our ideas as to the entire position if that could be possible.

*Jawaharlal Nehru* : The discussion that we had yesterday brings out certain things, clarifies certain points, and at the same time, it may be that those points were shrouded up in discussion of other things, and it is desirable that we should be clear as to exactly where we stand arising out of the discussion yesterday.

Obviously, we are proceeding, as we must, on the basis of the Cabinet Mission's statement with the acceptance of it in full with all its implications. Unfortunately, that statement is not an ideal statement, it does not deal with every possible contingency, and quite naturally, because we are moving along in a changing dynamic state of affairs and we cannot provide for every contingency. Nevertheless...

*Pattabhi Sitaramayya* : A little louder please.

*Jawaharlal Nehru* : The first thing to be clear about is to proceed with the full acceptance of the Cabinet Mission's statement. Apart from the legality of that statement, one thing also seems to me obvious, namely, that the scheme is essentially a voluntary one, where no compulsion, except, as I said, the compulsion of events, is indicated. No doubt, so far as we are concerned, we accept it as a voluntary scheme where people may join as individuals, as groups, or Rulers or otherwise. We are not trying to force any to join if they do not want to. It is a matter for negotiation throughout. Apparently the idea is that the whole Constituent Assembly, consisting of all these various elements, negotiate *inter se* so far as they could do so. Those formal negotiations are preceded by other understandings between parties. May I go further? Suppose at one stage of the Constituent Assembly, on a particular point agreement is not arrived at, we will have to come back to that point later, we cannot say it is closed, because we have these obvious factors. The situation is that before very long British power in India will fade away, it is fading away, and the more it fades away, the people of this country, whether in so-called British India or in the States, have to face that situation and face it by co-operating *inter se* by solving problems *inter se*; there will be no third party to intervene between them. So, whatever happens, we shall have to negotiate today, tomorrow, or the day after, at every stage sometimes. If we take longer to produce results, we not only postpone decisions, but create difficulties, but, anyhow, ultimately we have got to come together. That is an obvious fact.

May I say also that some of us here are members of the Congress, and though not formally, to some extent, may represent the Congress movement?

But naturally, we cannot, since we are acting in this Committee, speak on behalf of the Congress for two reasons, one, because we must have the authority of the Congress, and secondly, we are functioning here as members of the Constituent Assembly which may have a very large element of the Congress in it, but, nevertheless, has other elements and we cannot commit other elements of the Constituent Assembly. More or less, we are representatives of the Constituent Assembly.

Now, to go back, apart from the acceptance of the scheme which is basic, some points were raised yesterday. One was about the monarchical form of Government. That question has not arisen at all in the Constituent Assembly, nor, so far as we can see, does it arise at all from the statement. But it has been repeatedly stated in our behalf in the Constituent Assembly as well as outside that we have no objection to it, we accept that, and we do not want to come in the way of the monarchical form of Government at all. This has been made perfectly clear.

Another point that was raised in our discussion yesterday was about some apprehension about territorial readjustments. I tried to point out that the resolution passed by the Constituent Assembly had no reference in the minds of those who framed the resolution or who proposed it there, to any change regarding the States. It has no relation to the States. It was an indication that there will be provision made in the Constitution or in the process of regrouping units, etc. where some changes may have to be made. It had no reference to changing boundaries. I can conceive territorial boundaries being changed for economic reasons, for facilitating governmental purposes, etc., but any such territorial readjustments, we are quite clear, should be made with the consent of the parties concerned, and not be forced down. As I say, for the moment we are not thinking in terms of any such thing, but if this question arises it should be essential that the parties concerned should consent to it.

The scheme, as has already been stated, is a voluntary one, and whether in regard to the entry to the Constituent Assembly or subsequently, when the Constituent Assembly decides and comes to conclusions, there will be no compulsion, and the States will have the right to have their say at any stage just as anybody else will have the right to have their say at any stage, so that the coercive factor must be eliminated from that.

In regard to some confusion which has possibly arisen about subjects and powers, we proceed on what the Cabinet Mission's statement specifically says. The Cabinet Mission's statement said, "The States will retain all subjects and powers other than those ceded to the Union." That is perfectly clear, we accept that statement, we accept that entirely. Generally speaking, those are the matters that came up yesterday in the course of discussion, and perhaps we might proceed on that basis and consider other matters now.

*The Chancellor :* We consider the matters of the resolution.

*Jawaharlal Nehru* : I do not know what are the matters in the resolution. If there were any misapprehensions, I trust we have cleared them, and we may proceed with the business now, that is, as to how the States can enter into the Constituent Assembly, in what form, and what is the method to be adopted, as referred to in the Cabinet Mission's statement.

*The Chancellor* : We have discussed that matter lately. But there are certain other questions which require further negotiation or further discussion. That is my view. It was on that basis that we brought forward a resolution which we recently adopted. It contains a large number of important matters. There are certain matters which should be discussed later on, but which, in my opinion, according to the mandate we have received, should be clarified.

*Mirza Ismail* : If we can indicate to them what they are, I think myself that there may not be any room for disagreement. If it is possible, the other matters, if they are stated specifically, may help. I think we may be able to discuss them more easily. One or two points you may mention, so that we may know what is wanted.

*Maharaja of Patiala* : Could we have a transcript of what you announced just now ?

*Jawaharlal Nehru* : I suppose so. Yes, that can be done.

*Mirza Ismail* : The other matters are of such a nature that we can discuss them and settle them.

*Raja of Bilaspur* : I do not know if the States will retain all the powers except those ceded?

*Vallabhbhai Patel* : If you have any point to raise, you can do so and we are prepared to explain.

*Mirza Ismail* : Besides what the Honourable Pandit Jawaharlal Nehru has told us, are there any points? They in the Constituent Assembly are not going to bother about the Rulers. The Rulers and their people are going to get on as best as they can.

*The Chancellor* : May I ask a question?

*Jawaharlal Nehru* : Yes.

*The Chancellor* : Is it agreed that the basis of all negotiations will be as explained by Panditji? I am only trying to clarify the position. It is to be understood that all these discussions are not binding on any State individually. We have no plenipotentiary powers. We are only clarifying the position.

*Mirza Ismail* : We shall have to cross many a hurdle before we reach our goal.

*The Chancellor* : It is stated in the Cabinet Mission's plan that paramountcy will revert to the States. It is a proposition which I should expect you to accept.

*Jawaharlal Nehru* : I do not personally understand where paramountcy comes in at all. There is a Union of autonomous units of equal status,

each unit sharing the Union's paramountcy. The States will be on the same level as other units.

*The Chancellor* : Paramountcy vanishes?

*Jawaharlal Nehru* : Yes, there is no paramountcy anywhere. That question can only arise during the interim period. It is not going to arise in the Constituent Assembly.

*V. T. Krishnamachari* : With the interim period, the Constituent Assembly has nothing to do.

*The Chancellor* : It is agreed that the States will continue to retain all powers except those delegated by them.

*Vallabhbhai Patel* : What you are going to give to the Union remains to be seen.

*The Chancellor* : The question of inherent powers is a thing which will have to be very carefully dealt with.

*Jawaharlal Nehru* : Undoubtedly. That is why we have appointed a Committee. I may mention one instance. In a Union there will be some kind of judicial authority to interpret the Constitution and so on. Such things have to be provided for. It is obviously a question of interpretation that may have to be considered.

*The Chancellor* : The point is, the basis will be the Cabinet Mission's statement?

*Vallabhbhai Patel* : To the extent to which you hand over the burden, there will be no desire to take over your burden.

*The Chancellor* : The inherent powers?

*Vallabhbhai Patel* : You may discuss it in the Committee and see if anything can be done. Nothing will be done by a majority of votes.

*The Chancellor* : The Constitution and the territorial integrity and succession in the States, I hope, shall not be interfered with by the Union.

*Jawaharlal Nehru* : It is not a question of interfering with the Constitution. I suppose certain fundamental rights are part of the Union structure. Presumably, they will apply to the whole of India. A certain guarantee of individual rights will be provided for in it. Today the Human Rights Commission is meeting in New York. Our representatives are there. The conception today is that there are common individual rights which should be guaranteed all the world over. Naturally I presume we shall accept any world charter to that effect.

*The Chancellor* : I accept that fundamental rights recognised all over the world are to be the rights of our people too, but it does not rest with the Centre to deal with these matters.

*Jawaharlal Nehru* : That matter can go to the U.N.O. What is the U.N.O.? It is developing into a world republic in which all States, independent States, are represented and to which they may be answerable on occasions, for instance South Africa over the South African Indians' questions, even though this was a domestic question because the Indians there are South

African citizens. There is a reference to a Fundamental Rights Committee, section 20. Here again, we should like the States' representatives to join the Committee which has been formed which will not decide but which will report to the Constituent Assembly but which will presumably draw up certain fundamental rights more or less the same as the Human Rights Charter may determine.

*Pattabhi Sitaramayya* : The recommendations of the Advisory Committee shall have to state at what level they have to be implemented, may be the Union level, the group level or the provinces and States level. If it is the Union level, the Union will be seized of jurisdiction.

*The Chancellor* : If it is conceded by us that it will be a Union subject, then only it becomes a Union subject, but so far as the attitude of the States is concerned—I want to be perfectly frank because there have been suspicions and I have got to remove them. I should not be misunderstood if I say that after this point is conceded, authority cannot be given to the Union to interfere in the internal situation in the States on the plea of fundamental rights.

*Jawaharlal Nehru* : So far as fundamental rights are concerned, if any authority intervenes, it may not be the Union as such. Possibly the Supreme Court might or might not. It is judicial rather than an executive procedure. It is a common Court for the whole of India, provinces and States, and States can play as much part in that Court as any other part of India.

*The Chancellor* : That again if only the States have accepted the authority of the Supreme Court and that is a matter for discussion.

*Jawaharlal Nehru* : The present tendency is to go beyond the Supreme Court to the International Court, whether it is the Court of Justice at the Hague or the U.N.O. to which we belong. It is a dynamic conception which is developing and many people think in terms of the International Court or Assembly exercising more and more powers to control national rivalries. I do not really know what will happen even to the International Court. Therefore the exact powers in regard to fundamental rights will have to be discussed by us carefully so that a common basis, a common agreement, may be arrived at. What that basis is is a matter for discussion.

*The Chancellor* : If there are world tendencies, we have got to recognise them because they are world tendencies, but the point is the authority of the Supreme Court can only extend to the States after the States have agreed to it.

*Jawaharlal Nehru* : That applies to the whole situation.

*N. Gopalaswami Ayyangar* : You will be there to discuss it.

*C. P. Ramaswami Aiyar* : So far as fundamental rights are concerned, there are many classes of rights. Some will be in the nature of maxims of general application. Some can be implemented either through a Court or some tribunal and some may form part of the Constitution, and the whole question will therefore arise for negotiation and settlement as to the

classification of these rights, as to the manner in which those rights can be brought into the Union and codified, as to the machinery and the extent to which those rights can be enforced, and therefore once it is granted that these fundamental rights are to be discussed and accepted voluntarily, as well as the agency for the enforcement of those fundamental rights which again will be a matter for negotiation, there need be no further confusion on that point.

*Jawaharlal Nehru* : On the whole I agree with what Sir C. P. has stated. These fundamental rights are of various types. Some will be in the nature of maxims. There is a tendency in regard to fundamental rights to state many noble aspirations which are not legally enforceable easily but we will try to live up to them. On the other hand, there are legally enforceable rights. In the course of discussion, we may decide the machinery, etc. Some will be legally enforceable in the unit itself, some other rights, might be, in the Union itself.

*C. P. Ramaswami Aiyar* : It is one of the aspects now under discussion before the Human Rights Committee. There is one set of theorists who want to say that the whole of these things should be regarded as maxims. There are others who insist upon these being implemented in some material way, and I think those two tendencies have to be recognised.

*Jawaharlal Nehru* : Our delegation to the Human Rights Committee last week sent in a long Declaration of Human Rights for discussion and if I may just mention it, I was not anxious that it should be presented. In fact, I cabled them to delay its presentation but they had already presented it. This proposal of theirs is being supported by the British delegates and by some other countries too. The matter is for discussion all over the world. One other matter I may mention. Questions come up regarding ex-Italian colonies in North Africa and we have to give an opinion on the rights of those people and also on what the future democratic rights of Japan should be. It has all got mixed up. It is very difficult to isolate one problem from the others.

*The Chancellor* : I suppose there is no dispute as to the question that as far as the States are concerned, the Union Constitution will only be settled according to the Cabinet Mission's plan and will not deal with questions bearing on the internal administration of the States.

*Jawaharlal Nehru* : We start first of all with the autonomy of the Units. Obviously, the Constituent Assembly or the sections or groups will draw up the provincial constitutions. There is no procedure indicated to draw up the State constitutions.

*C. P. Ramaswami Aiyar* : I take it also that under the Cabinet Mission's plan it has been left open, though rather vaguely open, that the States might have to deal with groups and the Union and probably with provinces on certain matters which are of common importance to the States and those provinces or groups or Union.

*The Chancellor* : You have made it plain that the whole basis of the plan is voluntary negotiation and that the States are free to enter or not, and so we need not debate on this question.

*Vallabhbhai Patel* : Voluntarily we have come here today.

*Jawaharlal Nehru* : So far as the Constituent Assembly is concerned, our work there is of a voluntary character. It is not a legal interpretation of the document but often enough of facts which bring pressure to bear upon each party and obviously when they are big factors such as the withdrawal of British power from India, the equilibrium is changed and we will have to find a new equilibrium. Many problems will arise and we will have to face them together.

*Vallabhbhai Patel* : This is a document which is not enforceable in a court of law. Therefore, the whole basis of that document is not only voluntary but it will depend on how public opinion develops and on the moral forces that support groups and parties for its execution, and there is no other force which can result in executing it except the moral force and general co-operation of all parties.

*The Chancellor* : I would like to ask a question. In your resolution, you refer to negotiation with the States Negotiating Committee and other representatives of the States or something to this effect. I am only enquiring who the other representatives may be.

*Jawaharlal Nehru* : You will remember—I am speaking subject to correction—that in the Cabinet Mission's statement there is reference to the Negotiating Committee of the States and that there is no reference in regard to a Negotiating Committee of the British India part of the Constituent Assembly. When this scheme came up before the Constituent Assembly, it was natural that we should state that we would confer with all parties interested.

*Vallabhbhai Patel* : It was a natural corollary of the voluntary character of the document.

*The Chancellor* : The position as we understood it was that the authorised body under the Cabinet Mission's plan was the States Negotiating Committee. For formal discussion—I am not talking of informal discussion—that body alone is the authorised body. I am only trying to lay down the constitutional position.

*Vallabhbhai Patel* : The constitutional position is that the Constitution can take only a voluntary character, and therefore if any group of people want to come through this channel, or that channel, they can do so, because it is voluntary. Supposing there are a few States who say, "We are not represented in this. We represent, say, 10 million people or 5 million people and we are not represented in this Negotiating Committee", we cannot tell them that they cannot come in. That is coercion which we all want to avoid.

*A. Ramaswami Mudaliar* : We cannot prevent any individual from having



direct negotiations but I suggest that there is only one recognised body in the Cabinet Mission's plan.

*Vallabhbhai Patel* : On behalf of the States generally, this is a representative body, but there may be individual States or a small group of States who are not represented in it.

*C. P. Ramaswami Aiyar* : Pandit Jawaharlal Nehru has emphasised the voluntary character of this whole affair that the ultimate accession must be by the States, and the States as at present constituted, are represented by the Rulers of the States and the accession must be by the Rulers of the States. Ultimately, the method which has been devised by the Cabinet Mission's plan is to indicate an agency by which these Rulers, provided they come into the structure of this Negotiating Committee, can regard that as their representative. If any person goes out of that structure or conducts negotiations informally either with the members of the Constituent Assembly set up on behalf of British India or otherwise, it is a matter which does not really affect the question because, finally the voluntary character of the transaction being recognised, the accession is by the Ruler who either is part of the Negotiating Committee or definitely steps out and takes his own line. I do not think that is very crucial.

*Jawaharlal Nehru* : The Cabinet Statement says that the Viceroy should forthwith request the States to set up a Negotiating Committee. As to how it should be set up, who should set it up, the States or the Chamber of Princes, it does not say. Apparently the Viceroy wrote a letter to the Chancellor on the subject. The Chamber obviously represents a very large number of States, a great majority of them. There are some States who are not represented in it.

*Maharaja of Bilaspur* : The Chamber organisation is not voluntary. It is a compulsory organisation. A State Ruler might not take part in the Chamber of Princes, but a State Ruler in enjoyment of certain powers, certain salutes and certain other paraphernalia, automatically became a member of the Chamber of Princes when the Chamber was instituted in 1921.

*C. P. Ramaswami Aiyar* : May I interfere? I do not think any such domestic discussions need interfere with our task.

*Vallabhbhai Patel* : The only question is who will deliver the goods or who will be able to deliver the goods.

*C. P. Ramaswami Aiyar* : We here are the representatives of those who can deliver the goods.

*Jawaharlal Nehru* : It is a fact, however, that your Committee represents a vast number of States, big and small, of India. Nevertheless it may be said that it is not representative of some. I am not going into that question. The formation of this Committee has apparently nothing to do with the Cabinet Mission's plan. It is something between the Viceroy and the Chamber of Princes. We recognise you, of course, for the principal reason that you can deliver the goods. That is the main thing. You represent a

large majority. You can talk effectively on their behalf. But there is nothing, legally speaking, to prevent us—in actual practice it is not possible for the Constituent Assembly to take up the position that we will not confer with representatives of other States or for the matter of that the representatives of the States peoples, to know their viewpoint. They, as it happens, presumably cannot deliver the goods. That is a different matter. But we want their viewpoint also so that the essential voluntary character, the essential comprehensive character of our work should not suffer.

*C. P. Ramaswami Aiyar* : Why can't it be conceded that this British India Negotiating Committee or any member of it may consult with any persons they choose to consult? I take it, it will be for the purpose of further negotiation and discussion, taking at least as a workable basis or substratum that the body with which mainly you are concerned will be the Negotiating Committee of the States which is meeting you.

*Jawaharlal Nehru* : That is the present position. I do not know what developments in the future may be.

*C. P. Ramaswami Aiyar* : These developments again will be voluntary.

*Vallabhbhai Patel* : There will be nothing which will affect your representative character so far as the Chamber is concerned, but it is to the interests of us all that, if any unit remains out, we should make it our business to bring it in. Therefore we should close no door.

*The Chancellor* : As I explained in my opening remarks, there will be other matters which will need clarification. Some arrangements should be made whereby we can meet and discuss. I hope the scope will not be limited.

*Vallabhbhai Patel* : We are always available, any time you want.

*The Chancellor* : I suggest that these matters be referred to an Experts Committee.

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*The Chancellor* : In regard to various questions, financial and otherwise, we require a discussion. One point I would like to put forward. There is a provision for the British Indian side in the Constituent Assembly that major issues affecting one community or other should be decided only by the majority of that community. We have not received that concession in regard to the States. We asked for it when the Cabinet Mission was here and we were told that this would be a matter for further negotiation.

*Vallabhbhai Patel* : They told you you are not a minority, you are big powers.

*The Chancellor* : It is definitely a matter which will be discussed later. I am taking this opportunity to only mention this, if you are in a position to discuss it.

*Jawaharlal Nehru* : I must confess this is the first time I have heard about it. We have never heard it before in any form. The mention of major communities, as you know very well, was due to special problems, minority and majority problems. I don't see a parallel between the States.

*The Chancellor* : Our representatives, as I ventured to mention yesterday, are in a permanent minority in their number. We have special interests.

*Jawaharlal Nehru* : Those interests are covered in regard to matters we have already discussed this morning. They are not matters of one religion or group.

*The Chancellor* : I have mentioned it merely and I would like to take it later on when the time comes.

*C. P. Ramaswami Aiyar* : There is one other matter which arises. It is not as live a question as would need immediate consideration for this purpose. There is no doubt that there may be a few questions arising mainly out of the distribution of the Union Centre's power where a conflict might arise between the States as a whole and British India as a whole. Indeed I expect that in the discussions even in the Constituent Assembly there would not be much difference between the official and non-official elements in the States' representatives. I am myself holding the view that on many points it will be found that the States representatives will speak with one voice, in regard to questions that divide them from problems of British India. But there are also others in which States and Provinces will be congruent with each other in regard to economic and social aspects and problems in which one State and certain provinces or a certain number of States and certain provinces may have one point of view. For instance I easily can conceive of maritime States and maritime provinces having one aspect and inland States and inland provinces having another aspect. The question therefore would arise in actual discussion. But until the Constitution is framed, if the voluntary character of the whole of the negotiations is borne in mind, we need not arrest our discussions by consideration of this matter. This may or may not arise as a question to be incorporated in the Union if and when such incorporation is deemed necessary in the case of communal majorities and minorities. It may arise, it may not arise.

*Jawaharlal Nehru* : I can very well understand conflicts of interests if you like, between maritime and non-maritime areas. Similarly I can understand conflicts of interests as between two provinces.

*V. T. Krishnamachari* : Agricultural and industrial.

*Jawaharlal Nehru* : All those problems are bound to arise but they do not arise between States and provinces.

*C. P. Ramaswami Aiyar* : I expect between States and the Union. I can easily conceive of problems in which the State—

*Vallabhbhai Patel* : There may be many problems. There may be many baffling problems. We hope to settle them. Let us to-day open the gates. After all we have to face the problems. But as you say so far as the States

are concerned, the representatives of the States will have no different interests amongst themselves. There will be common interests, as the paramountcy disappears.

*Jawaharlal Nehru*: Shall we consider the question of the 93 seats?

*C. P. Ramaswami Aiyar*: I take it that 93 seats are for 93 millions. That being so, the question of actual distribution of seats might be left to be worked by them. There is no doubt that 10 or 15 States will get individual representation like 16 seats for Hyderabad, 7 for Mysore, 6 for Travancore, 4 seats to Kashmir etc.

*Raja of Bilaspur*: The best thing will be to have a small committee to go into the matter.

*Vallabhbhai Patel*: That would be better.

*V. T. Krishnamachari*: If the Chamber Secretariat produces a scheme, we can discuss it among ourselves.

*Vallabhbhai Patel*: The point to be settled is the method of selection.

*C. P. Ramaswami Aiyar*: Regarding the method of distribution among the 12 or 14 States, we have all accepted that non-officials should as far as possible be included and some States which have Legislatures have made certain proposals.

*The Chancellor*: There has been no trouble about that.

*Jawaharlal Nehru*: It will be best to appoint a small Committee and I don't think the Committee would take long over it. Because I understand that the Chamber Secretariat have got definite proposals and the Constituent Assembly Secretariat have also got certain proposals. So it should not be difficult when we have those proposals.

*C. P. Ramaswami Aiyar*: So long as it is clear that there is no intention to depart from the fundamental plan viz. that seats will be distributed on the basis of 93 seats for 93 millions and to adopt such groupings in regard to States which do not individually get seats to come together.

*Jawaharlal Nehru*: That principle of 93 i.e., one for a million should be generally followed. Obviously it cannot be 100% followed because of certain difficulties in grouping.

*C. P. Ramaswami Aiyar*: There would be fractions which would have to be settled in a particular way.

*Jamsaheb of Nawanagar*: Suppose a State has 13 lakhs and another 6, they may be grouped together.

*Vallabhbhai Patel*: The only point to be remembered is that there should be no dissatisfaction to the people and no complaint that their representation has been snatched away by others.

*C. P. Ramaswami Aiyar*: That is bound to be. There must be some dissatisfaction to every group. We can only minimise it.

*Vallabhbhai Patel*: We should try to solve it as far as possible.

*The Chancellor*: What sort of committee are we intending?

*Jawaharlal Nehru*: If you could nominate a few from your side and we

could nominate a few from our side, 24 hours should be sufficient.

*The Chancellor* : I like the idea of a small committee who can produce a plan. I have to consult my Standing Committee before I can say finally.

*Jawaharlal Nehru* : I appreciate that. Would it not expedite, if the Committee does not finally decide but comes to certain conclusions which can be put up to the States ?

*Vallabhbhai Patel* : Whatever decision is evolved, it should be acceptable to the States.

*Jawaharlal Nehru* : The mechanical part can anyhow be undertaken.

*A. Ramaswamy Mudaliar* : The mechanical part can be undertaken by the two Secretariats.

*The Chancellor* : Is there any special hurry about this matter so that this matter should be settled now ?

*Jawaharlal Nehru* : So far as the stage is concerned, that is for you to determine. I am not quite sure. The Cabinet Mission's plan is not very explicit about any intermediary stages and I don't see why you cannot come in at any earlier stage. But that is for you to determine.

*N. Gopalaswami Ayyangar* : The representatives should be chosen according to the method as soon as possible so that they can come into the Constituent Assembly and participate in the debates which are of greatest importance to the States. Take for instance the question of Union power. That is a matter I think in which the States are vitally interested. Defence,—you have got the Forces, Communications,—you have got your Railways—all those things will have to be considered in consultation before a final decision is taken and as you know, we have appointed a Committee for considering the question of what powers are included in the subjects mentioned in the Cabinet Mission's statement as Union subjects. In deciding the number of representatives of the States, even though they have not been formally elected, the resolution that we have adopted permits the President of the Constituent Assembly to nominate persons to represent the States and the President will proceed to nominate into this Committee so that the States will participate not only in the investigation of this matter but they will also be in the Assembly when that Committee's report is discussed. Similarly with regard to the Advisory Committee on fundamental rights, minorities and so on, provision has been made for taking representatives of the States, and power has been given to the President to add representatives of the States. It is therefore important that you should agree on this method of representation now so that before the April session of the Constituent Assembly, we get a decision on this point so that the Assembly will be complete for discussing these very important matters. May I also add that in the resolution which we have been informally canvassing this morning, there is some implication that the States' representatives are supposed to come in after the sections have completed their work. The provincial or sectional representatives and representatives

of the States shall reassemble. As you know, this document is full of lacunae and discrepancies. I would exploit the language of it for the purpose of accomplishing what I consider is a very good point. That paragraph simply says 'reassemble'. It seems to imply it should have assembled previously so that the document does not rule out the States' representatives coming in at an earlier stage. It is desirable they should come in.

*The Chancellor* : As far as the States are concerned, there is a general desire that we should participate in all the work. But as far as I am concerned, with regard to these matters, I must take the matters to the Committee of Princes. When we discuss this question, we shall bear in mind what you have said. I can assure you that as far as some of us are concerned, the desire is there. We shall take a decision in the Committee at what stage we come in and how we participate. We have to take it through the various committees before I can speak one way or the other on that question.

The other point is the question of the distribution of seats *inter se* and the method of selection. I agree at this stage that this Departmental Committee or Committee of Experts of the two Secretariats may be formed to make proposals. You will allow me time to take it to my committees before I can commit myself. I am only explaining my position. I can give you one more assurance. There will be no delay as far as practicable. But time has got to be taken and I have to safeguard my position.

*Jawaharlal Nehru* : That is quite clear. We appreciate what you say. We personally wish the earliest association of the States in the Constituent Assembly because we feel that if the States' representatives are not there and some work is done, some difficulties may arise later. Practically speaking, there is nothing to prevent the States coming in at an earlier stage. It might well be said that since the word 'reassemble' has been used, they must have assembled previously. We would like the States to come in earlier. We would like you to join the Committee on Fundamental Rights also.

*The Chancellor* : I appreciate the points put forward by Sir Gopalaswami and yourself. But it is a matter of policy and we are not in a position to deliver the goods now. We will convey this desire to my people and if they decide on a certain policy, we shall convey that to you and we may come to some arrangement. I am not in a position to say anything further.

*C. P. Ramaswami Aiyar* : I want to clarify one point. Speaking personally, I have always taken the view that the States in the preliminary stage should be represented by the Negotiating Committee. I have taken the view that from the beginning the Negotiating Committee should have formed part of the Constituent Assembly and should have taken part in its deliberations and although they were small in number they should have taken part and voted. I was given to understand that the Negotiating

Committee was not to be a vital or integral part of the Constituent Assembly. But what Sir Gopalaswami Ayyangar has now stated makes it clear to my mind that if the representatives of the Indian States should reassemble, they must have assembled and my construction has always been that the original Assembly was the Negotiating Committee which for that purpose represents the Constituent Assembly. If that construction had been adopted, and implemented, much of the controversy that has taken place would not have arisen.

*Jawaharlal Nehru* : These are purely legal matters and it is very difficult for me to give a legal opinion as two eminent lawyers have given opinion in regard to this matter.

*C. P. Ramaswami Aiyar* : But there has been difference of opinion.

*Jawaharlal Nehru* : You may remember that before the Constituent Assembly met, the matter was indirectly mentioned to me. I was told that the Political Adviser's opinion was that the States Negotiating Committee could only go there as a kind of observers and not as participants. I was told so. I said I do not know anything. I cannot say what the legal position is. It was for them to decide.

*C. P. Ramaswami Aiyar* : The Political Adviser's opinion was occult.

*N. Gopalaswami Ayyangar* : Whether occult or otherwise, I agree with the Political Adviser's opinion.

*C. P. Ramaswami Aiyar* : He has expressed his view vehemently and I controvert it.

*Vallabhbhai Patel* : That stage has passed now.

*The Chancellor* : I shall be very grateful if a full copy of this morning's discussion and yesterday's discussion is given to us.

*Jawaharlal Nehru* : Of course, readily. Now regarding the 93 seats.

*The Chancellor* : The two Secretariats may produce a scheme. I have to take to my committees and consider. Then we can meet.

*Vallabhbhai Patel* : Do we issue any statement to the Press now ?

*Jawaharlal Nehru* : We leave it entirely there. We have not discussed the distribution and the general principle governing selection or we say we discussed it or we considered it.

*V. T. Krishnamachari* : There is no other principle except one seat for one million.

*Jawaharlal Nehru* : Sir C. P. Ramaswami Aiyar mentioned that so far as Travancore is concerned, Travancore had six seats and that he is calling his Assembly to elect four and that two will be nominated.

*The Chancellor* : I want to make it clear the question of associating the representatives of the people of the States is alive in our mind and we want to do it. Generally speaking, I can give that assurance.

*V. T. Krishnamachari* : This Committee is only with regard to the distribution of 93 seats. The other question, we will discuss here. Distribution of seats is secretariat work.

*Vallabhbhai Patel* : The method of associating peoples' representatives will be discussed here.

*Maharaja of Patiala* : When once the allocation of seats has been decided then the method could be discussed. That will be the best method of approach.

*K. M. Panikkar* : The Secretariat will take two or three days. Then the Constitution Committee and the Standing Committee will come to decisions.

*The Chancellor* : We may meet again in 10 days or something like that.

*Jawaharlal Nehru* : We then adjourn this meeting to a subsequent date in 10 or 15 days' time. I should like it to be as early as possible.

*Vallabhbhai Patel* : You may have to evolve some machinery in some States. Some have a ready-made machinery and others may have to form some electorate or some machinery which will take time. It is better these things are settled today, tomorrow or the day after. To come again, it will be difficult.

*Maharaja of Patiala* : Some of the States' Rulers may have to go back to the States and evolve some sort of method for election.

*Jamsaheb of Nawanagar* : You had one thing in your mind. We had another thing. Now we have consulted each other. We should have some time.

*Maharaja of Patiala* : It is only a question of a fortnight.

*N. Gopalaswami Ayyangar* : The difficulty with regard to the Secretariat working out a distribution will be, what will they work upon ? They must have the population.

*C. P. Ramaswami Aiyar* : There should really be no difficulty, for this reason that unless certain States group, they will get no representation. It is therefore to their interest to group.

*N. Gopalaswami Ayyangar* : But they cannot allocate the number of seats unless they know to which group the seats go.

*A. Ramaswami Mudaliar* : That is where the Secretariat of the other side will be helpful.

*C. P. Ramaswami Aiyar* : The point is very simple, that is, if you say that half a million of people should be regarded as a unit for certain calculations, or three-fourths of a million or something of that kind, then that would avoid overlapping. I take it that both the Committees have already worked out some such schemes. These will have to be collated and some agreement reached.

*Jawaharlal Nehru* : Well, if it is a question of adjournment, what date will be suitable ? I would suggest Saturday the 22nd February.

*Maharaja of Patiala* : We will require more time. The whole problem will have to be tackled on a regional basis.

*A. Ramaswami Mudaliar* : 1st March will be all right, it is a Saturday.

*Jawaharlal Nehru* : The meeting of the Advisory Committee on fundamental rights and minorities has been fixed for the last week of February.



*N. Gopalaswamy Ayyangar* : This distribution of seats and method of allocation need not wait for that Committee. It is a question of selecting individuals. If the Chancellor would think of it...

*Jawaharlal Nehru* : You have to consult your colleagues, but if after consultation you think it feasible, could you not agree ?

*The Chancellor* : Panditji, what about the 1st and 2nd March ?

*Jawaharlal Nehru* : We have fixed the meeting of the Congress Working Committee for the 1st and 2nd March.

*Maharaja of Patiala* : How long will it last ?

*Jawaharlal Nehru* : It will last for two or three days.

*Maharaja of Patiala* : Then let us have it on the 3rd and 4th.

*Jawaharlal Nehru* : (after a pause) If you like, we shall try to shift the meeting of the Congress Working Committee to some other date from 1st and 2nd, and let us have our meeting on the 1st and 2nd of March.

*K. M. Panikkar* : What about issuing a press communique now ?

*Jawaharlal Nehru* : Yes, if you like. Some kind of press communique\* has to be issued. The two Secretaries may sit together and draft one.

*Maharaja of Patiala* : But who will look through it ?

*Jawaharlal Nehru* : It will not take five minutes. Those who want to go can go, and those interested can sit for a few more minutes and look through the draft.

*(The meeting then adjourned till the 1st of March 1947.)*

### March 1, 1947

*Present* : The Hon'ble Pandit Jawaharlal Nehru, The Hon'ble Maulana Abul Kalam Azad, The Hon'ble Sardar Vallabhbhai Patel, Dr. B. Pattabhi Sitaramayya, Mr. Sankarrao Deo, The Hon'ble Sir N. Gopalaswami Ayyangar (Members of the Committee appointed by the Constituent Assembly), His Highness the Nawab of Bhopal, His Highness the Maharaja of Patiala, His Highness the Maharaja Jamsaheb of Nawanagar, His Highness the Raja of Bilaspur, Sir C. P. Ramaswami Aiyar, Sir S. Sultan Ahmed, Mr. M. A. Srinivasan, Sardar D. K. Sen, Sardar K. M. Panikkar, Sir V. T. Krishnamachari (Members of the States Negotiating Committee), Sir B. N. Rau (Constitutional Adviser to the Constituent Assembly), Mr. H. V. R. Iengar (Secretary, Constituent Assembly), Sardar Mir Maqbool Mahmood (Secretary, Chamber of Princes).

*Jawaharlal Nehru* : On the last occasion we had a discussion for two days on many points and we dispersed leaving some matters to the respective Secretariats to consider and report on. They did that and, I believe, have presented an agreed report. Meanwhile other events have taken place which introduce an additional element of urgency into all our proceedings

\*See Document No. 91(x) *supra*.

and all our work. Now, anything that we can do in the Constituent Assembly or outside has to be done with the time factor in mind much more even than previously. So I hope that the result of our discussions on this occasion will lead to our functioning together as rapidly as possible with a view to achieving satisfactory results in the very near future.

*The Chancellor:* May I point out that we all reciprocate that wish? I am always very glad to meet and discuss these matters.

I quite appreciate that, since we last met, a new factor has been introduced which requires very careful handling of the situation and very careful examination and study of the whole thing. We appreciate that the time factor is of the essence of the matter and, as far as it lies in our power, we shall not be acting in a manner which would delay matters at all. We propose convening a general conference as early as possible to consider the latest position.

Last time, as we pointed out when we met, there were two questions that were to be discussed. One was the method of election to the Constituent Assembly and the other was the allocation of seats. As you have pointed out, there has been secretariat work on these questions and a report has been produced. Naturally the question of the allocation of seats is a complicated one as far as we are concerned, because there are very many interests involved in that. We lost no time in circulating these tentative arrangements arrived at by the two Secretariats and we have received answers in many cases. There is a certain amount of disagreement among the States in regard to the tentative proposals, though they are not of a very important or vital nature. There have been new suggestions made and these again are not of a very important or vital nature. But the suggestions are there and therefore the question requires further examination by our Committee. It was considered, as I said when we met last time, that the distribution of the 93 seats was more or less a matter for the States to decide. As far as the question of our quota of 93 seats is concerned I do not think there is any dispute or disagreement. If it is agreed that a further examination by our Committee should be given to this matter and the seats allocated the question could be easily solved that way. But then there will have to be a discussion of this question amongst ourselves.

Then as I pointed out last time, there is our letter of 19th June which was written by me to the Viceroy in consultation with and on the instructions given to me by the Standing Advisory Committee of the States. The results of these negotiations have to be taken by me to the General Conference of Princes and confirmed by them. I assure you we are doing everything as quickly as possible.

On the question of the allocation of seats and of the result of the negotiations that took place a resume has been prepared by the Secretariat of the Princes. To explain my point of view, I would like to read from the resume, if I may. It runs :

The Chancellor pointed out that certain preliminary negotiations must take place before the States could decide whether they should enter the Constituent Assembly. He also referred to the letter of 19th June addressed to the Viceroy which made it clear that a decision on the question whether the States should or should not join the Constituent Assembly will be taken by the general conference of Rulers and will depend upon the result of their negotiations with the Negotiating Committee.

This letter has been published as a White Paper as representing the view which the States have consistently taken in the matter. The resume, goes on to say :

Sir C. P. Ramaswami Aiyar referred to paragraphs 14 and 19(vi) of the State Paper and argued that the discussion of the points raised by the States was both legitimate and necessary.

I will only refer to the statement which I made and which you appreciated.

Besides, I suppose—I do not know what the exact position is—your Committee has also to report the result of these negotiations to the Constituent Assembly and you have to take decisions in regard to the matter in the Constituent Assembly or wherever it is. Do you think you should do so?

*Jawaharlal Nehru* : The position is this: You are referring to the agreed report as the basis for the allocation of seats. I must first of all mention that some minor alterations may be necessary. Of course we accept the report as a whole, *i.e.*, the principle underlying the general allocation of seats. Then there are some minor alterations to be made, but that will not give rise to any difficulty. In fact they could be left over to the Secretariats to work out in consultation with others if necessary. But in the main, I think that report was the agreed report and was based on the principle laid down in the Cabinet Paper of one to a million. About the reference of this matter to the general conference of Rulers, that is a course entirely for you and your colleagues to decide. But, as I understood the matter last time, this interval was more or less for that purpose, for the purpose of giving you time to come with the necessary authority or additional authority in a technical matter of this kind, *viz.*, the allocation of seats. In fact, when we adjourned at 1 o'clock on the last occasion, the respective Secretariats met at 3 and at 5 they produced the agreed list. They worked rapidly with the experience of similar work they had done previously and compared their lists. I was under the impression that there was time during this interval for the parties concerned to hold any consultation necessary and that at this meeting we could give final touches to the arrangement and leave minor variations to the Committee.

About any reference by us to the Constituent Assembly, there is no need at all. When the Constituent Assembly meets we have naturally to tell them what we have done, but that does not mean any reference to them or any modification of the arrangement by the Constituent Assembly which will

meet presumably in the third week of April. Our conception of the Constituent Assembly is that when we meet them, all these preliminaries should have been finished so that we may be able to meet together there for the more important work that we have before us which indeed now, because of the recent statement of the British Prime Minister, has to be undertaken on a stricter time table before us. I do not know, but the general opinion among the people seems to be that we should go by a time table in the Constituent Assembly so that we might practically finish the work within six or seven months so far as the framing of the Constitution is concerned so that we might have some time to act in accordance with what has been drawn up. So it is unnecessary for us to wait to report to the Constituent Assembly as to what has been done.

*The Chancellor* : May I explain? Whatever you said was quite correct. Last time when we met, we agreed that we should take the interval to prepare for this discussion and to come here with certain agreements and that work has been done on our side. With your permission, I have to read this letter again. This was written on the 19th June, 1946 :

The Standing Committee have decided, in response to Your Excellency's invitation, to set up a Negotiating Committee whose personnel is given in the enclosed list.

I will leave the portion dealing with personnel.

The results of these negotiations are proposed to be considered by the Standing Committee of Princes, the Committee of Ministers and the Constitutional Advisory Committee.

This we have done.

whose recommendations will be placed before a general conference of Rulers and representatives of States. The decision on the question whether the States should or should not join the Constituent Assembly will be taken by that conference and will depend on the result of the forthcoming negotiations.

We have discussed this question in these three Committees and we have come here with the result, and on the basis of that discussion I am able to place before you that, generally speaking, on the proposals made by the two Secretariats there is not much difference of opinion, but there are certain gaps to be filled up which, of course, will be filled up in due course. We have to take into consideration all the States.

You say you are meeting in the third week of April.

*Jawaharlal Nehru* : About that time.

*The Chancellor* : This is the position that we have to place before you. There is no question of feeling that the work should be delayed or that we should delay the programme.

*Vallabhbhai Patel* : Is any formal ratification necessary ? You should settle the thing today. When so many of us have decided on a certain course, it will be a matter of mere formality. The report of our Committee will be a formal one. That will never be disturbed.

*The Chancellor :* As I have said, generally speaking these Committees are in general agreement with the thing, but I have to take it to the Conference which will be held before the third week of April and take their orders.

*Jawaharlal Nehru :* The position is this. The Constituent Assembly is meeting round about the third week of April. There are certain Committees of that Assembly, important Committees not only from our general point of view but from the States point of view also. There is the Advisory Committee of which there are several Sub-Committees. There is the Fundamental Rights Committee with which the States are intimately concerned. They are not intimately concerned with the North-Western Tribal Committee, the North-Eastern Tribal Committee, or the Excluded and Partially Excluded Areas Committee.

*Vallabhbhai Patel :* Certain States may be interested.

*Jawaharlal Nehru :* Anyhow, the States are welcome to all the Committees. They are most concerned with the Fundamental Rights Committee of the Advisory Committee and we would very much like naturally to have the representatives of the States in that Committee as well as on other Committees, for example the Union Powers Committee which has not so far met but which may meet in the near future. That again is a matter in which the States are obviously interested. These Committees will make provisional reports for the consideration of the Constituent Assembly itself later on, and if the States' viewpoint is fully represented there, it would be easier to get out an inter-related report of the various viewpoints. Although the Constituent Assembly is going to meet in the third or the fourth week of April the process of the States sending their representatives to it, I presume, will take a little time. So, I should have thought that, apart from any formal ratification, the process should be started and completed as soon as it suits your convenience. Last time, when this matter was referred to the two Secretariats, the original proposal was that they should report within a day or two. In fact, they finished their work in two hours. Then it was suggested that they had better report later on so that time may be given for consulting the various bodies or some of the bodies represented in the States. I understand that that time was necessary so that we could finally dispose of these matters. The more helpful course would be for all these preliminaries to be settled subject, if necessary, to formal ratification.

*The Chancellor :* The question of allocation of seats is, in my opinion, separate from the question of the States participating in the Constituent Assembly at an earlier stage than that contemplated by the Cabinet Mission's plan and if there is to be a departure from that plan, in regard to which I have a mandate from the Princes that we adhere strictly to that plan—and I hope it is the view of the Constituent Assembly also—then this new question of coming into the Constituent Assembly at an earlier stage will certainly require the decision of the Conference of Princes. In regard to that matter, I do not think I can personally act.

*Jawaharlal Nehru* : I quite understand that. In fact, this question was brought up and referred to on the last occasion. Obviously, we are functioning in conformity with the Cabinet Mission's plan, but there is nothing in the Cabinet Mission's plan to prevent the States coming in at any stage they choose. You remember that the word used was 'reassemble'. 'Reassembling' means 'assembling previously'. Anyhow, as I pointed out on the last occasion, this whole Constituent Assembly is essentially a voluntary body and nobody can force you to come in at this stage or at that stage.

*The Chancellor* : I for one am prepared to accept it, but whether to come into the scheme earlier or not is, in my opinion, certainly a matter for decision of the Conference and it is a fundamental question as far as the States are concerned. There is nobody amongst us who wants to stand in the way of the progress of Indian independence and earlier realisation of independence, but apart from that we have every right to safeguard the interests of the States but not at the expense of the independence of the country. That being so, the matter coming into the Constituent Assembly earlier than accepted by us at a previous stage is, I think, a vital matter to us, and personally I consider it necessary according to my mandate that it should go to the Princes' Conference, not that I have a view one way or the other, but I feel that it is fundamental and should go to the Conference, and that the decision must be by that body.

*Maharaja of Patiala* : As regards the coming in of the Indian States into the Constituent Assembly at an earlier stage or at a later stage, it is a thing that can be considered later. It is our wish that we should come into the Constituent Assembly as soon as we possibly can, but at the moment, so far as I understand, we have got to discuss the two points.

*The Chancellor* : Is it your view or our view ?

*Maharaja of Patiala* : My personal view. I made a mistake in saying "our view". But my personal view is that at the moment, we have only got these two points to discuss. Can't we get on with these two points and discuss them, because in certain cases, there is nothing very much to talk about? There are just a few things which need certain adjustments, or it might be necessary for those States to discuss among themselves before reaching a final agreement.

*K. M. Parikkar* : Is not the question of accession a matter for individual States?

*Maharaja of Patiala* : These are the two points now. About the other point about the States coming in or not, we can talk later on.

*C. P. Ramaswami Aiyar* : It seems to be that the matter is much less complicated than may appear. Taking the question of allocation of seats, there can be no difference of opinion. Then, there arises the question of grouping. One of the objections, for instance, that has been raised is with regard to one or two States. States in South India, Sandur, Banganapalle and Podukottai, are coupled with 300 other States in Northern India and these 300 and odd

States have to send 4 persons to the Constituent Assembly. Naturally they want, if possible, to be grouped with South Indian States rather than with Northern Indian States with whom they have no contact or affinity of interest. These are what may be called detailed differences on matters of principle. So far as the agreed allocations by the two Secretariats are concerned, there can be no difference of opinion. It is this kind of slight adjustment that has to be made which will have to be done by negotiations with those persons and I understand that in the main, this allocation as among themselves with people, who have grouped, would be a matter which could be done on this side. The other question also with regard to what may be called the proportions to be sent to the Constituent Assembly—official or non-official—there too, it does not seem to present much difficulty. With regard to accession, what His Highness the Chancellor has stated is there, of course, but then the question, as has been rightly put, is one of individual decision ultimately as to whether the States accede or not, and is a matter which may be debated in the general conference, but even if the conference decides, the question still remains to be a matter of individual choice.

*Jamsaheb of Nawanagar* : Some adjustments may be necessary. Why not start with the method of selection?

*Jawaharlal Nehru* : The basis and fundamental principle is whether the States come in or not. Obviously that is a vital matter and my own impression was that they would come in. Now that is the first matter to be decided. The question of going into other matters could hardly have been taken up on the last occasion. We were proceeding on the basis that at some stage they may come in and, therefore, we are going into the kind of allocation, and method of selection and this thing has now been introduced. We can consider this matter probably, as Sir C. P. said in regard to 60 seats. There is no question about it. With regard to others, there are certain minor adjustments to be made to suit the convenience of States. There is no difficulty about it. It can almost be left to the Secretariats in consultation with the States concerned to make proper adjustments. The other question then arises, how the people are to be elected.

*The Chancellor* : Our suggestion is that in a State or group of States which are allotted more than one seat in the Constituent Assembly at least 50 per cent of the representatives shall be appointed on the recommendation of the legislatures where such legislatures exist and in other cases by an electoral college specially set up through popular bodies or otherwise. This is the first point.

It being understood :

- (a) (1) That the State legislatures in the aforesaid alternative would include regional and group legislatures where set up and authorised to select representatives of the group States to the Constituent Assembly.
- (2) The formal appointment of all representatives of States to the Constituent Assembly shall be by the Ruler.

(b) It is understood the result of the discussion between the two Negotiating Committees on the subject will be reported to the general conference of Rulers and representatives of States and is subject to final ratification by the States or group of States concerned. These are our proposals.

*N. Gopalaswami Ayyangar* : His Highness only mentioned cases of States with more than one seat. But are there any proposals as regards single seats?

*The Chancellor* : We have not made any proposal. It would be the choice of the Ruler. But I am prepared to say that no restriction is going to be placed on any Ruler, but it cannot be placed, and it is not intended to be placed, whereby even a single representative should not be chosen from the legislatures.

*Raja of Bilaspur* : I believe that these people elected either by legislatures or nominated as Your Highness proposes, if it were accepted, would come into the Constituent Assembly as the representatives of the Governments of the States concerned. I believe there is no intention that they may represent someone else than the established Government of those States.

*Vallabhbhai Patel* : Do you mean to suggest that they represent British India or anybody outside the States?

*Maharaja of Patiala* : They represent the people and the Government.

*Vallabhbhai Patel* : They are given representation on the population basis. If the constituted Government was to be their sole representative, then the document would have been different. This is going against the document.

*Raja of Bilaspur* : This is a point that needs a clarification at a time when we are discussing it, so that it is not left vague.

*Jawaharlal Nehru* : I should have thought that point was fairly clear. The whole conception of the Constituent Assembly is the representation of the people concerned either in British India or the States. It is also desirable that the Governments of the States should be indirectly associated with the work of this Assembly. The difficulty apparently is that the Constituent Assembly draws its authority from diverse elements being formed and constituted in a variety of ways—elections, nominations etc. In fact, the nominated elements suffer from lack of prestige. They would not be on the same level as others. It should be, I imagine, quite easy for governmental representatives and representatives of Rulers to come in through some elective process, through legislatures or electoral colleges as envisaged by the Chancellor. There will not be a distinction in the Constituent Assembly as there was sometimes in our legislatures, between nominated and elected elements. I would suggest for your consideration that all the persons who come in should come through some elective process, which as things are, will undoubtedly clear the whole difficulty about Rulers and the nominees coming in certain proportion.



*Raja of Bilaspur* : I do not want to suggest how the Rulers' nominees should come in. What I want to say is that where there are legislatures, it would be a very sad corollary at the end if a representative sent in by that legislature did a thing which was not accepted as reasonable by the properly constituted Government of that State. That is what I was trying to make out because it seems to me those legislatures have not such wide powers as are found in democratic countries, where the whole machinery of Government is elected on the sweet will of, the legislature. Therefore that person representing the legislature alone may be at a disadvantage in putting forward the views, which both his Government and the majority of the legislature would accept and whether it would formally be ratified or not, when he made that proposal, got it through the Constituent Assembly, gone back to the Indian State and found that it did not find favour. That was all that I was trying to make, in order to minimise the difficulty.

*Jawaharlal Nehru* : The difficulty lies both ways. We have to get through with as large a measure of consent of the people of the States as well as of the constituted Government as possible. The principle that I suggested was that it should be in conformity with the rest of the Constituent Assembly that they should come through some elective process, either an electoral college or the properly constituted legislature. This elective process may be by means of the single transferable vote which gives an advantage to any particular group to send its representatives. It would be quite easy for governmental representatives to come through the legislature in this process.

*Raja of Bilaspur* : The point I was trying to make out becomes more difficult. In States which get representation by halves and quarters, there are two kinds of Governments functioning, one with legislatures and one without legislatures. Some sort of formula would have to be evolved. Barring the 60 which we find in the schedule, the rest of the 93 are found in group representation; in some there may be four States, in some eight, and there may be 100 in some. There may be some which have legislatures and some which are just beginning to have them or some which have not any. If the legislature were the only criterion by which the quota of the group is to be elected, it means either taking away the representation of those which had no legislature, or again a sub-division of distribution of those block seats in the various groups to States having legislatures, and to States having none. I am only pointing out the difficulty.

*Abul Kalam Azad* : What is the solution for this problem ?

*Raja of Bilaspur* : It will suggest the solution for this problem a little later, provided you appreciate that the difficulty exists.

*Abul Kalam Azad* : It should be our endeavour to lessen the various difficulties as far as is possible for us.

*Raja of Bilaspur* : In the beginning it was felt that perhaps I had said something unreasonable.

*Jawaharlal Nehru* : The Chancellor has stated that where there are no legislatures, some kind of electoral college will be formed so that the procedure might be more or less similar.

*Raja of Bilaspur* : What I wanted to point out was that the electoral college cannot be similar.

*N. Gopalaswami Ayyangar* : Can we not take these groups separately and consider them with reference to their special conditions?

*Jawaharlal Nehru* : The Constituent Assembly as constituted today does not represent even the Governments of the British Indian provinces. They are people chosen by the people.

*Raja of Bilaspur* : The easy point about the provinces is that no province has got a population of below one million. I am only trying to see that the point should receive due consideration at the proper time.

*C. P. Ramaswami Aiyar* : There is no real difficulty in this matter. Because when the States come into the Constituent Assembly, they are coming in primarily, though not exclusively, for the purpose of settling the Union Constitution. That Union Constitution is based upon the doctrine of defence, external affairs and communications. I personally do not consider that in the discussions on the Union Centre there will be much difference between the official and non-official block in any Indian State. I do not expect that the representatives of any Indian State whether official or non-official, whether they are the Rulers' representatives or chosen, will differ. The conflict will be between British India and Indian States. The question how the choice is made is a matter which is not to my mind either fulcrum or crucial. The conflict of the future will be mainly economic between maritime and inland States and provinces, between adjoining provinces and States and so forth.

*Jawaharlal Nehru* : Shall we proceed with the report of the Secretariats? We need hardly consider it in detail. The general principle may be approved, subject to such minor adjustments as may be considered necessary on consultation.

*The Chancellor* : I take it that the proposition which I have put forward meets with your approval. The report of the Secretariats is about the distribution. We may finish the general principle.

*C. P. Ramaswami Aiyar* : Would it not be sufficient if we say that we approve of the general distribution prepared by the Secretariats and minor adjustments will be made in consultation with the Secretariats?

*Maharaja of Patiala* : It would be better to say that the distribution is approved subject to minor adjustments to be made by the Secretariats.

*Jawaharlal Nehru* : I have suggested that in the elective process, the procedure of single transferable vote may be adopted either through the legislatures or through the electoral colleges. If that principle is accepted, then we will consider other matters.

*The Chancellor* : My proposition was that where there is only a single

seat, it would be left to the Ruler to appoint the representative or to have that one man elected by his legislature.

*Vallabhbhai Patel* : If it is only one representative to be sent, it would be in the present conditions the Ruler's wish which will prevail.

*The Chancellor* : I am not saying the Ruler's wish will not prevail.

*Vallabhbhai Patel* : In effect your wish is carried out and at the same time the principle is accepted.

*The Chancellor* : I am prepared to make that recommendation myself ; but I cannot bind them down.

*Maharawal of Dungarpur* : Do I understand that in principle you are opposed to any nomination at this stage?

*Vallabhbhai Patel* : I am suggesting that the principle underlying the representation given on population basis should be respected and the Ruler's wish should also be respected. So I suggested a practical way in which both points may be respected. I do not see any State in which a single seat is given where the Ruler's wish will not be upheld. You are trying to override the principle in the State Paper. I suggest that from a practical point of view, we need not go into this principle in such a way as to raise issues which need not be raised now.

*The Chancellor* : If my suggestion finds acceptance, in my individual capacity, I am prepared to recommend that as far as possible, it should be done in consultation with the legislature. I am not in a position to say that the Rulers should be definitely bound.

*Jawaharlal Nehru* : There are nine States with single seats and there are five groups with single seats. As a matter of fact, if you accept the principle which I have suggested for your consideration, then how to apply it would have to be considered in relation to each State so that the machinery may be adjusted as far as possible. Conditions may differ in the States. One rule may not be applicable to all States.

*The Chancellor* : The general principle is common.

*Jawaharlal Nehru* : You suggested that in cases where there are more than one seat, at least 50% of the seats should be elected by the legislature or electoral colleges. I would suggest that for our guidance we may put down some figure that taking the totality of seats, two-thirds may be considered popular representatives and one-third others. How it should be adjusted will be done by each State. Sir C. P. Ramaswami Aiyar said that he had six seats and he suggested four and two.

*K. M. Panikkar* : Mysore had made a similar announcement that it would be half and half. Sir Ramaswami Mudaliar stated that he would lead the representatives and that three would be elected and three nominated.

*Jamsaheb of Nawanagar* : I would rather leave the quota at 50:50 because there may be difficulties in the way.

*Jawaharlal Nehru* : I am referring to the totality of the 93 seats. I am not referring to the different States.

*The Chancellor* : It will be difficult to distribute.

*Maharaja of Patiala* : Is it suggested that leaving individual cases, out of the total 93 seats, two-thirds should be elected and one-third nominated?

*Jamsaheb of Nawanagar* : It would be better to leave at 50:50. The time factor has to be considered. We have to draw up electoral colleges for a number of States.

*Raja of Bilaspur* : The difficulty would be, out of the 93 seats, the States might send 30 people as representatives and the whole of the others would have to be elected.

*N. Gopalaswami Ayyangar* : Perhaps a great deal of the difficulty will be solved if the two Committees will sit together and allocate these proportions in the case of each individual State. After all there are only 34 constituencies that you have got to regularise, and out of them 20 are individual States. The 20 States take 60 seats, the remaining 14 are responsible for 33 seats so that, if we settle the question of how the seats allotted to each of these 34 constituencies should be allocated between Rulers' nominees and elected representatives, then we will solve the question. After all we cannot leave it to anybody else. We can have a committee and will have to approve of its recommendations.

*The Chancellor* : We shall do that but I think we are almost settled that this is a matter for us to decide but I would beg you, Panditji, to accept this fifty-fifty formula. I think it would find general acceptance without going into any details which are neither here nor there. I would like, if I may be allowed to do so, to raise this question in greater detail because we are a large number and even if we take into account—I am saying 'even' because there are 70 or 80, I am not saying that the others are of no value, but to get the concurrence of 70 or 80 people to a formula is rather difficult. We have come to this decision after very careful consideration and we felt that it would be generally and widely accepted.

*Jawaharlal Nehru* : Are we now considering the question of the totality of the States?

*The Chancellor* : Yes, 50-50 for each State.

*C. P. Ramaswami Aiyar* : Not less than fifty.

*Jawaharlal Nehru* : You say at least 50. Your proposal is that—out of the 93 seats, whatever half of it is,  $46\frac{1}{2}$  or 47, should be elected and the rest nominated.

*C. P. Ramaswami Aiyar* : There is a practical difficulty as to that. As H. H. of Bilaspur stated, supposing Hyderabad out of its 16 seats sends 8 nominees and 8 elected and Mysore sends 3, Kashmir 2, Gwalior 2, the total of the nominated elements will be such that these 30 people from the rest will only have to be elected. It largely depends upon the 20 States.

*Jawaharlal Nehru* : Therefore I say in regard to these 20 States, the proportion of  $\frac{2}{3}$  and  $\frac{1}{3}$  should certainly be followed whatever might happen in regard to the other States.

*C. P. Ramaswami Aiyar* : The point arises this way. I think H. H. the Chancellor had a discussion on this matter and many of the States said they were prepared to do this and that. Hyderabad said fifty-fifty, Mysore 4 and 3. Travancore had made a decision even before. Other States had made certain other decisions. Now if it is realised—and I think it will be realised—that the real distinction between official and non-official will not be crucial in these discussions, I expect the 20 States can be made to take a different line. I would rather not insist on it just now if a general idea that not less than 50% is agreed to and if it is further borne in mind that the idea is to get as much as possible up to  $2/3$ , then you may leave it at that and leave the discussion for 20 States. In reality, it is entirely a matter of discussion among the 20 States. Others will have to toe the line.

*Jawaharlal Nehru* : It seems to me that we have arrived at a stage when the matter should be discussed in some detail. Will it not perhaps facilitate business if we appoint some small committee, 2 or 3 from amongst us to consider this matter.

*Maharawal of Dungarpur* : We would prefer to do it by ourselves. I think that it would be more helpful and in my humble opinion facilitate the expeditious disposal of the entire question.

*The Chancellor* : I think the position has been made very clear.

*C. P. Ramaswami Aiyar* : There is nothing to prevent a State or 4 or 5 States having one vote each to come together for this purpose and get 4 seats out of which to choose so much by election and so much by nomination.

*Maharawal of Dungarpur* : I assure you this is a rather delicate and intricate question.

*Jawaharlal Nehru* : I quite appreciate the delicacy and intricacy. I know that naturally before any kind of formal decision is made, the States concerned have to know their reactions to it but what I was suggesting was that in order to facilitate our discussion we might examine the question a little more. It is one thing to try to see the whole picture and fit things into it but when you see it in small parts, you do not see the whole picture.

*Maharawal of Dungarpur* : As H. H. the Chancellor remarked I think the basis should be fifty-fifty, at least in so far as those States that are grouped are concerned.

*Jawaharlal Nehru* : There are two points, one is that some kind of electoral procedure might be adopted for all the States. Secondly, a rough indication of how many popular representatives there should be. Now what the Chancellor suggested was in regard to States having more than one seat. The proportion would be affected by the single seat constituencies. Therefore if some general idea was worked out, it would facilitate our consideration of the subject because, although intricate and difficult, it is all a question of considering 20 or 30 cases.

*Sultan Ahmed* : Shall we take up the first list where we have got 60 seats and see how it fits in? Let us see whether you can have  $2/3$  of the

total even on the basis of your formula : Hyderabad—11, Mysore—4, Kashmir—2, Gwalior—2, Baroda—2, Travancore—4, Cochin—1, Udaipur—1, Jodhpur—2, Jaipur—2, Bikaner—1, Alwar—Nil, Kotah—Nil, Indore—Nil, Bhopal—Nil, Rewa—1, Kolhapur—Nil, Patiala—1, Bahawalpur—Nil; Total : 32.

*N. Gopalaswami Ayyangar* : The idea that has been pressed from this side is that even in the case of what you call nominated, the people will come through some process of election.

*Pattabhi Sitaramayya* : On that two opposite opinions have been expressed.

*The Chancellor* : We are leaving that to the discretion of the States. We cannot go beyond but I hope that there will be some who will adopt the other process.

*N. Gopalaswami Ayyangar* : Even in regard to the 20, we can find out which people will agree to this method of election.

*(The Conference adjourned for coffee)*

*Jawaharlal Nehru* : I do not think when we come to the actual detailed list, there is going to be a vast difference between what you have suggested and what some of us have suggested. I would therefore put it for consideration whether it would not facilitate our work in this matter if we ask our respective Secretariats and two members nominated by you and two by us to sit together and see what your proposals lead to and what ours lead to and then we meet at half past ten tomorrow morning. This body will see whether our differences are considerable. They could also consider a slight combination of the suggestion made by you and the one made by us. I think that at least 50% should be popular representatives and that the others should come through some electoral process to be devised. May be that the Rulers concerned might nominate panels from which the others might elect. The Rulers' nominees also will come in and there will also be electoral process. Anyhow if we actually see the results of these suggestions worked out by the Secretariats plus some others, it may be easy for us to consider the position. I do not want that we should reach final and rigid decision here. If we lay down the general principles it may be easy for the Secretariats to arrive at some conclusion.

*The Chancellor* : I have no objection whatsoever in offering my co-operation for working out the details. I would not like to accept something here and then later find that it is not acceptable.

*Jawaharlal Nehru* : I am not for a moment saying that you should now accept anything. These two proposals should be considered in detail by the Secretariats.

*The Chancellor* : I do not mind that.

*Jawaharlal Nehru* : But it would be desirable to have two nominees of yours and two of ours there to meet the Secretariat this afternoon so that we can meet and consider this matter without prejudice...

*C. P. Ramaswami Aiyar* : The problem put in the simplest form would be like this. After the arithmetical operation performed with the aid of Sir Sultan Ahmed, we have arrived at 32 for the Appendix A single seats. Therefore if the Hon'ble Panditji's idea of two-thirds is to be eventually accepted, you must take 30 seats from the list of 33.

*Vallabhbhai Patel* : Not 33.

*C. P. Ramaswami Aiyar* : There are 60 in Schedule A, out of which according to the plan worked out, 30 will be popular representatives. Therefore out of 93, they will get two-thirds or 62 and you must get 30 out of the rest. For that difficulty I have suggested an alternative.

*Sultan Ahmed* : Could you not give some instruction to the Sub-Committee to take the Chancellor's list and work it out and take the suggestion I have made and work it out and try to approximate them as far as possible? We have discussed this before and according to you the seats should be not less than 60 elected out of 93 and according to us, from our point of view, it could not be less than 42 altogether. We have worked it out and it would come to 42 popular.

*Jawaharlal Nehru* : Forty-seven.

*Sultan Ahmed* : That is the total. If you take each State, then it comes to 42.

*Pattabhi Sitaramayya* : 93 minus 4 reserved for groups comes to 89. That has to be divided into two.

*Sultan Ahmed* : It cannot be less than 42. 42 plus 42 would be 84. Then some seats will be left again. We can easily arrange about that, because we must have some experts also. We will have to take them.

*Jawaharlal Nehru* : We are all experts.

*Sultan Ahmed* : At least we claim to be. The experts will have to come through the seats allotted to the States.

*Raja of Bilaspur* : Somehow this is not quite clear to me. If there are 93 seats altogether and of this 66% is to be elected then it means that out of 93 there will be 60 selected seats. If approximately 32 constitute 66% of the 60 seats here then it means that 28 should be elected out of 34.

*Vallabhbhai Patel* : Does it mean excluding the group seats and the others which have been left out?

*Raja of Bilaspur* : If this is the idea it will be a different figure.

*Srinivasan* : Can I speak in Tamil?

*Raja of Bilaspur* : If Maulana Saheb can speak in Urdu, I have also the right to do so. Whether the Speaker of the Legislative Assembly admits my claim or not my right is there.

*Vallabhbhai Patel* : Even there the members from Madras object to it.

*Raja of Bilaspur* : I mean it is all right if 28 and 34 are added and out of this 62, 28 is excluded. Out of these two figures 34 and 28 it is all right to exclude 28.

*Jawaharlal Nehru* : I think we might form a small committee to work in the Secretariat this afternoon and report to us tomorrow morning.

*The Chancellor* : I have no objection. Let us try.

*Jawaharlal Nehru* : Let us consider also what instructions we should give them. Let them work out these proposals or any alternative proposals which between the two might strike them. It seems to me the fair course lies between the two proposals. At least 50 per cent should be popular representatives and others may come in through some electoral process, whatever that might be.

*Raja of Bilaspur* : I think that is a very sound suggestion.

*Srinivasan* : Then it will be 100 per cent cases through some sort of election.

*Sultan Ahmed* : All of them will be popular representatives.

*Jawaharlal Nehru* : In fact, these elections in the States will necessarily be on a very limited basis. Even the legislatures have nominated members, and then the franchise is limited. The electoral colleges are very limited too.

*C. P. Ramaswami Aiyar* : The franchise is not limited in some of the States.

*Jawaharlal Nehru* : Yes, but in some States it is very limited. In effect, the nominated members will represent the constituency of the Rulers. When we say 50 per cent popular representatives, we mean more or less other than Rulers' nominees.

*The Chancellor* : There may be cases where the elected representatives will represent the constituency of the Rulers and others not.

*Jawaharlal Nehru* : Yes, it may be.

*Maharaja of Patiala* : We can suggest the names.

*Jawaharlal Nehru* : I suggest Sir Gopalaswami Ayyangar and Dr. Pattabhi.

*Maharaja of Patiala* : I suggest Mr. Srinivasan and...

*The Chancellor* : We will send two people this afternoon. What time?

*Jawaharlal Nehru* : Half past two.

*The Chancellor* : Three o'clock.

*Jawaharlal Nehru* : Yes. Tomorrow morning what time will suit you?

*The Chancellor* : Any time that suits you.

*Jawaharlal Nehru* : Half past ten tomorrow and 3 o'clock this afternoon in this room.

I do not suppose it is necessary at this stage to issue any press communique.

*The Chancellor* : I do not think it is necessary.

*March 2, 1947*

*Jawaharlal Nehru* : The Committee that we appointed yesterday met and after coming to some conclusions, they left it to Sir B. N. Rau to draw up the proceedings of the meeting, which he did. A copy of this was sent to the Chamber Office and that report contains certain suggestions, variations or additions. Some of them are quite minor, one or two not so minor, but the whole point is that this report is meant to help us to discuss this matter.



The report consists presumably of all that was said at the last evening's meeting of the Sub-Committee. It is just a basis for discussion. Copies are being typed and we will be getting them in a few minutes' time. I will ask Sir Gopalaswami Ayyangar just to tell us more or less the basis of this report of the Sub-Committee.

*C. P. Ramaswami Aiyar* : The report may be read out.

*Jawaharlal Nehru* : As I just said, there are certain points in it which, it is suggested by Sir B. N. Rau, should be changed and I will read it to you apart from one or two minor matters as Sir B. N. Rau gave it to me.

*(At this stage Jawaharlal Nehru read out the Minutes of the Joint Meeting of the Sub-Committee appointed by the British Indian and the States Negotiating Committees, held on March 1, 1947).\**

In the annexure the names of States or groups are given. It is pointed out that instead of describing groups as Bharatpur Group or Datia Group, some geographical designation is to be given, such as Rajputana States, Central India States or Punjab States.

*Sultan Ahmed* : May I suggest, Sir, that page 1 remain as it is. On page 2, above the middle add the following: "After much discussion, Sir N. Gopalaswami Ayyangar suggested that the popular representatives might be elected by the elected element and the others by the nominated element." It was stated that 'nominated element meant official and non-official'.

*N. Gopalaswami Ayyangar* : That we have included now.

*C. P. Ramaswami Aiyar* : I am speaking only for the State which I represent. I would resent being elected by the nominated official elements and if it is going to be election, it should be an election by the whole legislature. To get the personnel elected by the nominated and official element is to accentuate what Pandit Jawaharlal Nehru stated yesterday. If there is going to be a difference of caste between nominated and outside members to get the Dewan elected by non-official element, it will make his position even more invidious.

*Maharaja of Patiala* : It is only a suggestion.

*N. Gopalaswami Ayyangar* : We should welcome Travancore taking that line.

*C. P. Ramaswami Aiyar* : The line that Travancore will take is that two will be nominated by the Ruler and four will be elected.

*Sultan Ahmed* : As a matter of fact, it was put simply because it was suggested that there should be, at any rate, a pretence of election in all cases.

*C. P. Ramaswami Aiyar* : He has got no credentials for popular support. To get nominated official members elect him is invidious.

*Jawaharlal Nehru* : What Sir Sultan Ahmed suggested is this. Are we trying to correct the report, or are we considering the points?

\*See Document No. 94, *infra*.

*Sultan Ahmed* : I am simply suggesting the alterations in the draft, in the sense that the draft does not represent correctly what happened.

*Pattabhi Sitaramayya* : The question of officials and non-officials did not come up yesterday.

*Jawaharlal Nehru* : However it is immaterial.

*Pattabhi Sitaramayya* : We go to the last but five lines from the bottom of paragraph 5, which reads: "the division of the seats between them should be on the 50:50 basis proposed by the Chancellor".

*Sultan Ahmed* : You suggested that it should be 50:50.

*Jawaharlal Nehru* : Do you want it to be added that it was suggested by me?

*Sultan Ahmed* : I think I am right in saying that you suggested it.

*Jawaharlal Nehru* : I did suggest it, but the form of election will be an important matter.

*Sultan Ahmed* : Then, coming to the second paragraph of paragraph 5, it is stated: "As Hyderabad and Kashmir might require special treatment, their cases were left to the main Committees for consideration."

This was not done. As a matter of fact, this was not discussed. What we discussed was: Hyderabad was mentioned as a case where we can try to find out how many could be by election and how many by nomination, and in what form. I went on pointing out that I was referring to Hyderabad simply for the purpose of understanding the position of elected and nominated members. It may be considered here. That is another matter.

*Pattabhi Sitaramayya* : I suggested we should not take up that question which is bristling with difficulties. That was the place where boycott was practised. We left it over to the big Committee.

*Jawaharlal Nehru* : We are not considering the question. It is stated here that the matter was left over to the main Committee.

*Pattabhi Sitaramayya* : These are only minutes of the proceedings as they took place.

*Jawaharlal Nehru* : The only question is whether this matter came up before the Committee and whether the Committee decided to leave it over to the main Committee. If it did come up, it is properly there. I was not there. I cannot say anything about it.

*Pattabhi Sitaramayya* : He does not deny that it did come up.

*Jawaharlal Nehru* : It may be put in this way: "Dr. Pattabhi Sitaramayya suggested that it should be left over."

*Pattabhi Sitaramayya* : After that, nothing else was suggested. We passed on to the next subject. If it is omitted, it means that whatever applies to the other States would apply to this State. Surely the Sub-Committee was realising its duty.

*Sultan Ahmed* : This question was never discussed.

*C. P. Ramaswami Aiyar* : May I suggest, is it necessary to have this at all if we are going to consider the question here?

*Jawaharlal Nehru* : This report is not for publication. Whether it is contained in the report or not, this question will have to be considered here.

*Raja of Bilaspur* : The vital point is whether both the Committees agreed that these States deserve special treatment.

*Jawaharlal Nehru* : Both need not necessarily agree on the issue. Some members may think that they require special treatment and others may freely say that they do not.

*Raja of Bilaspur* : What is said is, it is not a matter for the Sub-Committee.

*Jawaharlal Nehru* : This is a record of the proceedings which states that this point was raised and it was considered that it was not a matter for the Sub-Committee. It may be put in this way: "Dr. Pattabhi Sitaramayya suggested that Hyderabad and Kashmir may require special treatment. It was agreed that this was not a matter for the Sub-Committee."

*Sultan Ahmed* : I am referring to paragraph 8 last line: "The remaining representatives should be elected by..." What was omitted was this : "having votes in proportion to the population of the respective States."

*Jawaharlal Nehru* : That sounds like a shareholders' meeting of the Rulers.

*Raja of Bilaspur* : As a matter of fact, I will be vehemently opposed to that suggestion.

*Sultan Ahmed* : We may drop the point.

*Jawaharlal Nehru* : We will take up the point raised by Sir C. P.

*C. P. Ramaswami Aiyar* : After what fell from Panditji the matter will very seriously be considered certainly by the State which I have the honour to represent, whether the principle of proportional representation by a single transferable vote may not satisfy the position and whether everybody should not be elected subject to nomination by the Ruler. That is a matter which will have to be considered with a very careful research.

*The Chancellor* : The report has just now come before us. I want the discussion to go on but as you would understand, each member would be speaking in his own capacity and not for all the States, because our method has been that all these questions are discussed and instructions are given to the Chancellor who speaks collectively. This matter has just been received and I have no instructions and whatever opinion is expressed is the individual opinion of the person concerned. And even the opinion which I may sometimes give—and I have been silent for this very reason—will be my own personal opinion and not the opinion in any representative capacity.

*C. P. Ramaswami Aiyar* : I want to make my position absolutely clear. I do not wish to bind any State or any other person and I can only speak for the State of Travancore, which has already decided to send four representatives selected by the legislature. The personnel of the legislature is as follows. There is a Lower House of 65 persons in which there are ten nominated and 55 elected. There is an Upper House in which ten are nominated and 27 elected. Therefore the proposal that has been made for

Travancore is that the two Houses should sit together. The number of nominated elements will not be increased because many are common so that it will probably happen that there will be about ten or twelve in a House of 100. Even the nominated elements are now being returned by electoral colleges of backward communities, etc. The matter for consideration is whether the principle of single transferable vote and proportional representation would meet the demand of the case. So far as Travancore is concerned, four will be selected by the legislature and two are supposed to be nominated by the Ruler. That number 2 may suffer a diminution or may not.

*Pattabhi Sitaramayya* : Sir C. P.'s point may work well in Travancore where the Upper House is constituted on a peculiar basis, I mean to say, not on democratic basis.

*C. P. Ramaswami Aiyar* : With great respect to Dr. Pattabhi's knowledge of the Travancore constitution, the franchise today in the Lower House is a tax of Re. 1 per year and for the Upper House Rs. 5 as tax.

*Pattabhi Sitaramayya* : You are only confirming what I said that the Upper House is constituted on a peculiarly liberal basis. Therefore it might not appear to make much difference if both the Houses sat and elected but this cannot serve as a precedent. I am merely forewarning.

*Jawaharlal Nehru* : Your point, Sir C. P., is that so far as you are concerned, you do not like at all this idea of the nominated element electing some persons separately.

*N. Gopalaswami Ayyangar* : Have you any suggestions, Sir C. P., with regard to the two or one which you have reserved for nomination by the Ruler to be put through some process of election?

*Jawaharlal Nehru* : He has suggested that it may be by single transferable vote.

*C. P. Ramaswami Aiyar* : Even out of the two, I said that it is possible that one more may come in by election, or it may be that both of them may come in by single transferable vote.

*Pattabhi Sitaramayya* : Can you not relax your objection to the Lower House alone electing?

*C. P. Ramaswami Aiyar* : But I have already announced that both the Houses will elect.

*The Chancellor* : May I in my personal capacity point out that the question of election in some form or other by nominated members is not acceptable to me? It does leave some sort of feeling in my mind that it will not be quite correct. It should be either, the Ruler or the legislature which decides. Either it should be by the vote of the whole legislature by some method of election or the choice should be given to the Ruler. The election by nominated members really will amount to the same thing that it will be by the Ruler, but it might have repercussions in the States as well as outside which should be avoided if it is possible.

*Jawaharlal Nehru* : It is really better that there should be a single transferable vote. There is much in what Sir C. P. said.

*C. P. Ramaswami Aiyar* : If I don't accept the single transferable vote straightaway, it is because we are tremendously stratified in my part of the world and the single transferable vote will bring into the Constituent Assembly a very strongly divided communal element, *i.e.*, there are 57 recognised communities in Travancore, of which 17 are Christian communities, none of which inter-marry or inter-dine with each other and the only difficulty would be as Panditji, Sardar Patel and Dr. Pattabhi know very well, the single transferable vote would rather give a fillip to these separatist tendencies. That is the only reason ; otherwise I would have straightaway recommended to my Ruler the single transferable vote.

*Jawaharlal Nehru* : Let us consider the general principle then. What are the alternatives? One is what is put down here. The other is a single transferable vote. The third I take it is that a certain proportion should be elected and a certain smaller proportion should not be elected.

*K. M. Panikkar* : Camouflage nominations do not have much value. Their moral validity will be questioned. In any case, while camouflage election seems to have the disadvantages of both it has the advantages of none.

*N. Gopalaswami Ayyangar* : I must take exception to the description of this device as a "camouflage nomination". Let me put to you the point of principle which can be urged for the suggestion that was made as a compromise at the Sub-Committee meeting. Now, take a legislature in a State. A certain number of members are elected by territorial constituencies of the people. Then you have got certain other interests or areas which are not fit for the elective process and for which the Ruler undertakes the responsibility of nominating suitable representatives. Now, if you look at it in that way, the Ruler becomes in effect the constituency for the nominated element. In electing to the Constituent Assembly you use the method of indirect election through the representatives of the State legislature. In regard to the Ruler's nominees, that is to say in regard to the other parts of the population of the country for whom the Ruler acts, you use the method of indirect election by using those people whom he has nominated to the legislature who stand on the same footing as the elected representatives in the legislature who returned the required number to the Constituent Assembly. You cannot say it is "camouflage".

*K. M. Panikkar* : I withdraw that word.

*The Chancellor* : Sir N. Gopalaswami Ayyangar, I mildly protested against that thing yesterday; I want to protest now a little more boldly against it because I have certain grounds. I think a Ruler at all times, and in particular in the future, can only survive with the goodwill and good wishes of the people. He must carry the people with him if he means business and if that is so, the whole of his State or at least a vast majority of his

population must be his own constituency; otherwise he will not be able to function. That is my personal view.

*Jawaharlal Nehru*: With that I think everyone will agree. But Sir N. Gopalaswami Ayyangar's point was different. As Sir C. P. suggested in the case of Travancore the nominated element is almost purely an official element while in other places the nominated element may represent minorities, special scheduled classes etc. There is a difference between purely official and certain interests being represented.

*Jamsaheb of Nawanagar*: A Ruler does nominate certain interests in his legislature. Why not recognise him as an acknowledged fact that he does exist as a Ruler capable of nominating?

*K. M. Panikkar*: If you have to exercise an option, there is the fact—however much we may like it or dislike it—that at present the Governments and the Rulers have to find certain kind of recognition in the Constituent Assembly along with the people's representatives. None of the suggestions made seems to me to get over the actual substance of the point of nomination. Whether you come through an electoral college of nominated people or of some other method of that nature the substance of Rulers' nomination remains, in which case we really are trying to make the pretence, which seems to me in such an important matter as not fully recognising the importance of the situation.

*Sultan Ahmed*: I entirely agree with Sardar Panikkar. Let us face the facts. After all, it will be nomination by the Rulers.

*Jawaharlal Nehru*: What do you say to this point, Dr. Pattabhi?

*Pattabhi Sitaramayya*: Of course, Sir N. Gopalaswami Ayyangar has clothed it in constitutional language. If it commends itself to the Rulers, we must accept it. When the Montagu-Chelmsford reforms were proposed, there were two criticisms, one from the die-hards and one from the nationalists. Now, both of us agree that this is bad, but if the Ruler says that the Ruler must get the right to nominate, that is not the conclusion. I say it must come through the channel of the electoral college. The future is entirely dependent on the goodwill of the people. Let us inaugurate a new era. It will be a fine gesture.

*The Chancellor*: I perhaps speak on quite a different plane. I think there are things in this world which you have to take as they are; there are also things in this world which cannot be changed overnight. It will take a long time to build these things, but it is not going to take us and none of us want to take too long to build up a Greater India, for which we all stand. Therefore, we have to make adjustments according to the times. There have been adjustments in British India too to meet this exigency. If I am not wrong—I stand subject to correction—the Constituent Assembly and the provincial legislatures represent only at the outside by indirect election about 10% of the whole population and I am putting the figure high. My information is 7 to 8%—I may be wrong. If that is

the position, democracy wants that there should be adult franchise, higher education and so many things. I am not going to waste the time of the Committee by detailing them. The position is that we are passing through special times; we have to devise special means to meet the situation and we have to take things as they are. This was also the basis of the Cabinet Mission's plan. I do still say that the Constituent Assembly representing India today as at present composed does not represent the whole of the population; it represents a very small proportion of the whole population but still we are working on that basis. So I would strongly urge that to meet the situation we should take things as they are. We cannot change overnight; it is impossible, but we have to go on, and it was with this genuine and honest intention that we made a proposal to meet the exigencies of the case and I would still commend that my original proposal be accepted for whatever it may be worth.

*Jawaharlal Nehru* : I would like to say that your argument stands except this statement about the 10%. I think the proportion is about 25% or 30% of the adult population.

*Vallabhbhai Patel* : I am suggesting that from the constituencies from which the representatives of the Constituent Assembly come, not a single man will question their representative character. Therefore, to that extent they fully represent the constituency and on that basis the Constituent Assembly is formed.

*The Chancellor* : I would not like to enter into a controversy.

*Vallabhbhai Patel* : If I am representing a constituency I fully represent it; you will accept it.

*Jawaharlal Nehru* : I think we are limited to three proposals; one is this memorandum; the other is Nawab Sahib's suggestion that at least 50% should be elected and the rest presumably nominated; the third which I ventured to put forward that the elected elements would be two-thirds.

*Srinivasan* : When you say that 66⅔ per cent should be popular representatives, does it mean that they should be non-officials?

*Jawaharlal Nehru* : If we have a general process of election for all, the method of election may be diluted somewhat to permit the official element to come in. If it is to be some Ruler's nominees and some elected, then the elected element should not be diluted. \*

*The Chancellor* : May I make one point? The method suggested represents in my judgment and in the judgment of my Committee, a thing which could be accepted to a very large extent, by most of the States. If some individual States want to adopt a different method whereby they could give a more representative character to their representatives, there is no objection to that.

*Maharawal of Dungarpur* : Do I understand that the right of the Rulers to nominate members is being objected to in principle?

*Jawaharlal Nehru* : There is no question of principle involved in this.

As Nawab Sahib has said, we have to accept certain facts of the situation. We have stated that two-thirds should be popular representatives and that the others should come through some elected process. For my part, I would have no objection to a Ruler nominating all such persons. But then, I would suggest that the elected element should be much bigger, because as it happens even in the elected element, no doubt, the Ruler's choice and his influence would go a long way.

*Vallabhbhai Patel* : If there is insistence on nomination, then why not accept this two-thirds and one-third?

*The Chancellor* : It cannot be worked out.

*Vallabhbhai Patel* : It can be worked out. The bigger States should be more liberal. I do not think the responsibility need be thrown on the smaller States. The bigger States should be generous and they can afford to do it.

*Pattabhi Sitaramayya* : On the two-thirds calculation basis, we worked up to 54. We ought to have 60.

*Sultan Ahmed* : We cannot get 60; it is impossible.

*Vallabhbhai Patel* : As Sir C. P. pointed out yesterday, there is no conflict of interests between the States' representatives and the States' nominees.

*Jawaharlal Nehru* : 54 is really not two-thirds because two-thirds is 61.

*The Chancellor* : The point is not of finding out a common factor which would be acceptable. I do not want to mention any names—I have great difficulty in dealing with this question. This big chunk would come from the large States who have different views on this question and it might jeopardise the whole plan if you push it too far. I am only telling you that this is the position. If the plan is not pushed too far, there is reason to believe that it would go through and the results would be no different in the slightest manner from what we all want them to be; and at the same time we would have crossed a big hurdle.

*Jawaharlal Nehru* : According to the plan suggested by Nawab Sahib, the elected number is 45. Two-thirds, mathematically speaking, is 62. But because of single-member constituencies and double-member constituencies, they work out to nearly 54, which is a middle figure between 45 and 62. So actually the difference is 9 more than 45, and 8 less than 62. The difference is really not very great.

*Raja of Bilaspur* : May I point out a very important factor in this connection as I wanted to do even at the very beginning? At the end of the Schedule are 13 single-member States who do not contribute anything either under plan A or under plan B. Why is this apparent, what I might call, ambiguity—I would like to call it partiality—as compared with, let us say, the Punjab group out of which 3, 2 are elected which is 66½ per cent?

*Sultan Ahmed* : Under the Chancellor's plan, it is only not less than 45.

*Raja of Bilaspur* : I seriously put up this objection. You cannot say



that because it cannot be 50, therefore it should be 70; because the difference is very great.

*Maharawal, of Dungarpur* : I think all these problems are of minor importance. Given a little time, we can reach some sort of agreement amongst ourselves, rather than discuss this now. After all, it is not a major problem.

*The Chancellor* : I think Baroda is electing the Dewan and this will add one more in column 3. I am certain that among the 13 States, there will be three or four more States which will take to a process of election. I think there may be some of the larger States who may by some persuasion or by representation add one or two more and the number would really be round about 50. I cannot vouch for it or guarantee it. I think there is some possibility of that. That being the position, I think the proposition of 50 : 50 which I put forward is the only proposition which would find general acceptance among the large number of States. Nobody can speak for individual States. They have their own option. In that way, we could have crossed a very important hurdle to the satisfaction of all concerned. The effort is genuine as far as I know; but the circumstances are such that we have got to meet them as best as I can and I would commend that plan for your consideration.

*Jawaharlal Nehru* : I have no doubt whatsoever that the effort on both sides is genuine and there is a strong desire to bridge this gap although it may be that our approach to this problem somewhat differs. In actual result, the differences have been minimised. For my part, I am not very much interested in two or three seats here or there, but rather in the approach to the problem and that should be as nearly as possible in conformity with what some of us consider to be right. I must confess that with what Nawab Sahib said I do not feel there is very great difference. He has put it fairly. It is difficult for him and others present to commit many of the States who are not present. On the other hand, he has assured us that efforts will be made to add to the elected element. As it is here, in the single-member States the number of seats have been left out. There is no reason why they should be left out. When filled up, possibly the figures might go up considerably. In view of this, speaking for myself, I would suggest that without much further argument about the figures two or three, we might accept the general proposition as the Nawab Sahib has put forward that we should have a minimum of 50 per cent elected and that we should try to have as many more as possible. (*Cheers*.) I hope the Chancellor will recommend this and will try to see that this proportion increases. We thought, as Dr. Pattabhi put it, it would be very much in favour of the Princes themselves if this comes from them rather than from us.

*The Chancellor* : May I add, whenever I make a proposition, you will find me not only supporting it, but recommending it, urging it and doing my best to carry it out. There need be no doubt about that.

*Pattabhi Sitaramayya*: Why not extend your representative character? Of course it is fitting with the conditions. I am the officiating President of the All India States Peoples' Conference. Panditji is the permanent President. I wish he had assumed to himself the role of permanent President and accepted it straightaway and made it more pukka.

*Vallabhbhai Patel*: This morning's discussion started with "I say in my personal capacity". Everybody insisted that they are speaking in their personal capacity. So also Jawaharlal stated.

*The Chancellor*: The discussion started on a certain report which we had not seen.

*C. P. Ramaswami Aiyar*: I could not speak except personally when I spoke about Travancore.

*Vallabhbhai Patel*: You speak as a member of this Committee which gives you a representative character. You insisted on speaking in your personal capacity.

*Jawaharlal Nehru*: There are certain matters which have to be considered. First of all, how the elected persons will come in. Generally speaking, it has been said that they will come through the legislatures where they exist or through some other device.

*The Chancellor*: May I read again what I said yesterday :

In a State or group of States allotted more than one seat in the Constituent Assembly at least 50% of the representatives shall be appointed on the recommendation of the legislatures where such legislatures exist and in other cases by an electoral college specially set up through popular bodies or otherwise, it being understood,

(i) that State legislatures in the aforesaid alternative would include regional or group legislatures where set up and authorised to select the representatives of the group States to the Constituent Assembly;

(ii) the formal appointment of all representatives of the States to the Constituent Assembly shall be by the Ruler.

*Jawaharlal Nehru*: Well; the question arises about the election in the legislatures, whether they are elected by the elected members or by others also.

*The Chancellor*: The plan was, the whole legislature.

*Jawaharlal Nehru*: I would suggest that now that you are having an elected block and a nominated block, it would be far better to confine election to the elected members of the legislature. The nominated element comes through the Rulers' direct nomination and the others come through the elected group.

*Raja of Bilaspur*: In the Punjab States there are Hindus, Sikhs and Muslims. So far as I know, only four have legislatures functioning at present. What I was suggesting was as long as the elected seats came up to a certain added up total, it would not be pressed upon each individual block of States sending a quota, also to send a quota which would correspond to 50% or more. In other words, it was rather a general picture of

50 or so many persons elected rather than having the pound of flesh from each group constituency.

*Jawaharlal Nehru* : That is a point. Generally speaking, we have been discussing the totality. Of course, there is no very hard and fast rule. I was going to suggest, in fact, that some kind of a small sub-committee might be appointed such as we appointed last night to consider these matters as they arise, in consultation, if necessary with the Chancellor and the Constituent Assembly. What I suggested was that the elected members should only be elected by the elected members of the legislatures, as Sir C. P. Ramaswami Aiyar said that he would fix it up in Travancore. That seemed to me the general trend of discussions yesterday too.

*The Chancellor* : Personally, I see no great objection to that. I do not know how the various legislatures in the various States are constituted. I have no means of knowing that. It may make it difficult for me to make a general acceptance of that.

*Vallabhbhai Patel* : We thought 50 would be popular representatives. If popular representatives were to be elected by the nominated representatives that will be different.

*The Chancellor* : I think you are right. It may be possible to have the officials if there are any in the legislatures excluded. There are, in most of the legislatures that I know of a few, not many, nominated non-officials. Officials are quite different.

*K. M. Panikkar* : For example in Bikaner, the Sikhs would not come in by any process of election. Therefore, certain persons have always to be nominated. How can they be kept out of the election? There are some representing special interests. Even in the Central Legislature Mr. N. M. Joshi represents labour.

*Jawaharlal Nehru* : This is a different thing. In the provincial elections to the Constituent Assembly, the Hindus and Sikhs in the N. W. Frontier Province were totally eliminated. The Muslims in Orissa were eliminated on the population basis.

*K. M. Panikkar* : We should at least give the right of voting to those who at the present time because of their smallness do not get a chance of getting themselves elected to the State Legislatures. We have got to nominate them to represent their communal interests.

*Jawaharlal Nehru* : That would apply to very few legislatures.

*Vallabhbhai Patel* : You want to have it both ways. On the one side you say that the nominated members should have votes. On the other hand you say that the elected number should be so restricted that it should not go beyond 50.

*K. M. Panikkar* : I was merely referring to nominated non-officials.

*Vallabhbhai Patel* : We suggested an addition of 25%. That 25% may be elected by some other process and your point would have been met. You are introducing a camouflage.

*The Chancellor* : I may be allowed to refer to my own State. There is a majority of elected members. Labour, for instance, has been nominated because that had no constituency. There are thus three or four nominated members. The majority consists of elected members. I am only giving a concrete example. We withdraw the officials completely from the elections. There are some interests which have to be represented by nomination by the Ruler. It was these people that I was saying ought to have votes. They do not represent the Ruler. They represent their particular interest.

*Vallabhbhai Patel* : I was referring to the objections raised by Sardar Panikkar. Election by nominated members will be a camouflage. Let us revert to the original thing. Let us have 25% in addition by this camouflage and your point will be met. I have no objection to the nominated members voting if you agree to this.

*Jawaharlal Nehru* : I do feel a difficulty about this. You will appreciate, I have no doubt you will, that once we put it that the elected members will be elected both by the elected element, and the nominated element, and the rest will be nominated, it will have a tremendously bad impression. That even the elected element is not elected by the elected members of the legislatures would have a very bad psychological effect. As it is, I fear that the elected element is small. If we add to that that the elected element also comes partly through the nominated element, it would be difficult. I quite appreciate that these small groups, labour, Sikhs, etc., who are represented by nomination by the Rulers should not be left out. I would suggest that these should come through the Rulers' choice. The Rulers' nominees would represent them.

*Raja of Bilaspur* : Could they not vote or not be voted for ?

*Jawaharlal Nehru* : I do not know the figures for non-official nominated members. There may be three or four or five. It is the principle I am worrying about. I would say that if an official stands, he can certainly stand. There should be no embargo on his coming in. I suggest that the principle might be agreed that the election should be by the elected members. I do not know whether any difficulty arises in particular places.

*The Chancellor* : The officials do not vote.

*Jawaharlal Nehru* : I suppose difficulty might possibly come in in single-member constituencies which desire to adopt the elective process.

*The Chancellor* : There I suppose the whole legislature would be voting.

*Jawaharlal Nehru* : Some such arrangement may be made because it is a single-member constituency. In regard to others, it may be clearly stated that the elected members shall vote. After all, we are going to have electoral colleges. How they are to be formed is another matter. The only way to fit in with the scheme is that the elected members should vote.

*Abul Kalam Azad* : (in Hindustani) And it does not affect your ultimate objective.

*Vallabhbhai Patel* : I think the proposal we have put forward is correct and it provides for both the points of view.

*Abul Kalam Azad* : This is alright, provided the number of nominated members is less. Then it does not affect our proposal.

*Vallabhbhai Patel* : Let both of them remain. Their point of view also is correct.

*(H. H. the Chancellor and the Hon'ble Pandit Jawaharlal Nehru conferred together.)*

*The Chancellor* : Panditji, I accept your proposal. *(Cheers.)*

*Jawaharlal Nehru* : I take it, of course, that there will be no restriction on candidates—anybody can stand, official or non-official.

*The Chancellor* : Only those restrictions which are in existence all over the world for elections.

*Jawaharlal Nehru* : Paragraph 6 says :

It was agreed that ..... may make a formal notification stating the names of the persons selected and cause it to be communicated to the President of the Constituent Assembly.

*The Chancellor* : Yes.

*Pattabhi Sitaramayya* : What happens to a State in which the Ruler does not wish to join the Constituent Assembly?

*The Chancellor* : The Cabinet Mission's plan lays down the alternative for it.

*Jawaharlal Nehru* : He keeps out.

*C. P. Ramaswami Aiyar* : It is left for the people and the Ruler to decide.

*Jawaharlal Nehru* : I suppose we should have a small Committee to go into various small matters. If you like we can have the same Committee or any other Committee you may choose, which can consult the Chancellor on the one hand if necessary and the President of the Constituent Assembly on the other for such details as it may be necessary to consider.

*The Chancellor* : The same Committee will do.

*Jawaharlal Nehru* : I suppose the question of formation of electoral colleges will be considered by that Committee.

*The Chancellor* : I think it is entirely a matter for the States.

*Jawaharlal Nehru* : It is a matter for the States, but many questions may arise and I suppose the States would like to observe certain uniformity; for instance, supposing an electoral college consists of nominated members only; then it will not be an electoral body.

*Maharaja of Patiala* : That would not then be correct. It will be on some popular basis.

*The Chancellor* : As far as the States are concerned, there will be difficulty in introducing any outside authority.

*Jawaharlal Nehru* : I am not suggesting any outside authority, but I am only suggesting that various matters may arise which may overlap, and may concern some other issues too. It is a similar kind of position to whether a person should be elected by the elected members or the nominated members. Instead of discussing this matter we may leave it to be considered by this

Committee. Some time it may be necessary for H. H. the Chancellor to refer the matter to the President of the Constituent Assembly.

*The Chancellor* : I have no objection to consultation but if it is considered that it will be binding...

*Jawaharlal Nehru* : Binding on whom? I am not suggesting that. Obviously, in all these matters we are functioning in a new field. There is no constitution laying down what is to be done and so the more consultation there is the smoother will be the work.

*The Chancellor* : For consultation I agree.

*Pattabhi Sitaramayya* : Are we not passing on to the question of the electorate which we call for the time being "electoral college" because it has become necessary in regard to single seat constituency or groups; there are no legislatures in single seat constituencies. Therefore you have to create an electoral college. Now you are referring certain matters to the Committee. It is better to have it in the form of a resolution.

*C. P. Ramaswami Aiyar* : I take it that this Committee is an Advisory Committee to this Joint Body and so long as that is understood, why should we have anything further drafted. Any points that arise from the main resolution is implemented by this Committee.

*Jawaharlal Nehru* : I think that it is quite enough. We have left out so far considering the special cases of Hyderabad and Kashmir. The difficulties that arise apart from other difficulties are that in both these States elections recently took place and a large number of people of the principal organisations there did not participate in those elections. Now, if that Assembly there elects people, it does not represent a very large number of people, who did not participate. They would certainly take very great objection to it. I do not know whether it is possible to organise elections there for this particular purpose. It is, I understand, quite easy in Kashmir but about Hyderabad I do not know. Their representative is unfortunately not present. How are we to take a decision then? We can't take a decision in his absence but the point has to be raised.

*Raja of Bilaspur* : They are both members of the Negotiating Committee and either they should say that at a particular time we have reached a particular stage in our labours, that the results are not perfectly acceptable to them and that they would negotiate on their own or if they continue, then they should put in their views about this matter through the spokesman of the Negotiating Committee.

*Maharaja of Patiala* : The Chancellor can ask them.

*Jawaharlal Nehru* : My point is that the elected legislatures there at the present moment are not anywhere nearly representative because the principal organisations concerned did not participate and in effect boycotted the election. I hope that so far as the election to the Constituent Assembly is concerned, some satisfactory arrangement may be devised. I think, Nawab Sahib, it would be helpful if you wrote to the two Governments.

*The Chancellor* : I will do so.

*Jawaharlal Nehru* : There are two or three other matters. Firstly, what about the Committees? There are two Committees in which the Princes are deeply interested, one is the Union Powers Committee and the other the Fundamental Rights Committee. It seems to me that it will be very much to your advantage to participate through your representatives in these Committees right from the beginning; otherwise naturally things will have to be reconsidered afresh when certain conclusions are arrived at. You could of course suggest some one who could function there subject to any further decision in the matter.

*The Chancellor* : I am tied up in this matter. I will have to make a reference formally.

*Jawaharlal Nehru* : At present there is one Committee—Union Powers Committee and the other is Advisory Committee which has split up into 5 committees, the Fundamental Rights Committee, North Eastern Tribes Committee, North Western Tribes Committee, Excluded Areas and Minorities Committees. The Tribal Committees—I suppose—don't interest you so much. The Excluded Area might interest you and the Fundamental Rights and the Minorities also. If you would like to send your representative, the only way we can do it is that we can get the representatives nominated by the President. You can communicate with the President on the subject and he will nominate whomever you suggest. Presumably, the next meeting of the Constituent Assembly will be held about the 25th April. So far as the Committees which I mentioned, are concerned, they propose to meet meanwhile. So far as the Constituent Assembly is concerned, the members of the States if they are to participate, should be chosen by that date or preferably at the latest by the 15th April. That is nearly 6 weeks from now. I would suggest that this date might be mentioned to the States concerned.

*The Chancellor* : May I explain? My idea is the result of these discussions after they have been prepared and the method of selection settled, we shall communicate it as quickly as possible to all States. Then the decision by the Conference will be taken and in the meantime if any States are anxious for themselves to go on with the election or to elect people as a result of this thing, they would be in a position to do so. When a decision of the Conference is taken, we shall know as a body where we are. As far as individual States are concerned they have their own course to follow and there is nothing to prevent them from acting by themselves.

*Jamsaheb of Nawanager* : Individual States are all right but what about those who have to group. We have to meet again. You take my own area. There are certain States in my area who do not want to come in.

*Jawaharlal Nehru* : That can be adjusted easily. (*Addressing the Chancellor*) I suggest, Nawab Sahib, that in any circular your office might issue you might mention that the next meeting of the Constituent Assembly is taking place round about the 4th week or after the 20th April and

it is desirable that the participating States should send their names to the President of the Constituent Assembly. There is one other matter before we part and that is a press communique to be issued. Apart from that I think there is no other matter.

*Maharaja of Patiala* : May I propose a vote of thanks to the leaders of both the Committees.

*Pattabhi Sitaramayya* : I have great pleasure in seconding this. We have inaugurated a new era of friendliness and friendship and we shall go on cementing this in order to make an India which will weld the provinces and States into one solid whole to comprise an Independent Indian Republic.

*The Chancellor* : The press here seems to have a knack of misrepresenting things. So I want to make it clear that the decision to participate is to be taken at the Conference and we are not in a position now to take the decision though internally we know for ourselves the position. This thing should not be misrepresented in the press, otherwise I should be getting into serious difficulties.

*C. P. Ramaswami Aiyar* : I take it that the position may be summarised as follows,

That a corporate decision with regard to the States is expected to be taken in a Conference of Rulers. There is nothing to prevent an individual State wishing to participate in the constituent Assembly doing so and that certain dates are suggested.

*The Chancellor* : I was going to say that 'the decision is going to be taken by the Conference which will be held in the very near future.

*Jawaharlal Nehru* : I think what Sir C. P. said correctly represents the position.

*Jawaharlal Nehru* (After minor alterations which were discussed and agreed to) read out the following joint press communique :

The States Negotiating Committee of the Chamber of Princes and the States Committee of the Constituent Assembly concluded their deliberations this morning. They generally accepted the recommendations of their two Secretariats as regards the allocation of seats among the different States, and authorised the making of such minor modifications as are considered necessary by the parties concerned. They also agreed that not less than 50 per cent. of the total representatives of States shall be elected by the elected members of legislatures or, where such legislatures do not exist, of other electoral colleges. The States would endeavour to increase the quota of elected representatives to as much above 50 per cent. of the total number as possible.

2. It was decided, to set up a Committee consisting of the following members to consider the modifications referred to above and other matters of detail that might arise from time to time and to report, if necessary, to the two Negotiating Committees :

1. Dr. Pattabhi Sitaramayya,
2. Sir N. Gopalaswami Ayyangar,



3. Sir V. T. Krishnamachari,
4. Sir Sultan Ahmed,
5. Sir B. N. Rau,
6. Mir Maqbool Mahmood,
7. Mr. H. V. R. Iengar.

3. The States Negotiating Committee will place the above conclusions before a general Conference of Rulers and representatives of States for ratification at any early date.

*The Joint Committee then dispersed.*

# MINUTES OF THE MEETINGS OF THE JOINT SUB-COMMITTEE OF THE STATES COMMITTEE OF THE CONSTITUENT ASSEMBLY AND THE NEGOTIATING COMMITTEE OF THE CHAMBER OF PRINCES

March-June 1947

*[On a suggestion made by Jawaharlal Nehru at the joint meeting of the States Committee of the Constituent Assembly and the Negotiating Committee of the Chamber of Princes held on March 1, 1947, the two Committees appointed a Joint Sub-Committee to work out the details of the proposals discussed at the joint meeting of the Committees and also to examine any alternative proposals that might strike them. The Sub-Committee met the same afternoon; the minutes of the meeting were circulated to the members of the two Committees when they met again the next day. The March 2 joint meeting of the two Committees decided to continue the Sub-Committee "to go into various small matters" and whenever necessary consult the Chancellor of the Chamber of Princes on the one hand and the President of the Constituent Assembly on the other "for such details as it might be necessary to consider". The Sub-Committee met on March 6 and 23, April 24 and June 5, 1947. The minutes of these meetings of the Sub-Committee are reproduced below.]*

March 1, 1947

THE SUB-COMMITTEE APPOINTED by the British Indian and the States Negotiating Committees to work out the details of the proposals discussed by the two Committees this morning met for the purpose in the afternoon. There were present : The Hon'ble Sir N. Gopalaswami Ayyangar, Dr. B. Pattabhi Sitaramayya (Members of the British Indian Sub-Committee); Sir Sultan Ahmed, Sir V. T. Krishnamachari (Members of the States Sub-Committee); Sir B. N. Rau (Constitutional Adviser, Constituent Assembly of India); Mr. H. V. R. Iengar (Secretary, Constituent Assembly of India); Mr. Maqbool Mahmood (Secretary, States Negotiating Committee).

2. The details of the proposal put forward by the Chancellor were first worked out. The proposal was that not less than 50 per cent of the representatives of the multi-member States or groups of States should be

returned by election and the balance by nomination by the Rulers. The elected quota worked out on this basis is shown in column 3 of the annexed tabular statement under plan 'A'. It will be noticed that on this plan the over-all representation of the elected element falls short of the requisite 50 per cent by 2 seats, the total being 45 out of 93.

3. The details of the proposal made by the Hon'ble Pandit Jawaharlal Nehru, namely, that the elected quota should be as nearly as possible two-thirds of the total were next worked out. They are shown in column 4 of the tabular statement under plan 'B'.

4. In both the above plans, single-member States and groups of States have been left out of account, except Cochin, where the Ruler has thrown the seat open to election.

5. The two sub-committees next considered exactly how, on either plan, the seats allotted to the elected representatives and to the Rulers' nominees respectively were to be filled. The States sub-committee were prepared to recommend election by the elected element (in the legislatures, where they exist, and in representative local bodies in other cases) for the former, provided that nomination by the Rulers was accepted for the latter. The British Indian sub-committee pointed out that some form of election was best for both. After much discussion, Sir N. Gopalaswami Ayyangar suggested that the popular representatives might be elected by the elected element and the others by the nominated element, official and non-official. Thus, in Mysore, on plan 'A', the 44 elected members of the Legislative Council would by themselves elect 4 representatives to the Constituent Assembly and the 24 nominated members of the Legislative Council would by themselves elect the other 3 representatives. In this way, both sets of representatives would come in through a form of election, while at the same time the Ruler could, through the nominated members make sure of getting 3 seats for his nominees. The suggestion was generally agreed to; but the States sub-committee desired that if a form of election was accepted for the Rulers' nominees as well as for other representatives, the division of the seats between them should be on the 50:50 basis proposed by the Chancellor. They realised that the total of the detailed allocation on that basis, as shown in the annexed tabular statement, fell short of forty-seven by two seats and they suggested that it should be left to the Chamber of Princes to arrange exactly how the deficit should be made good. This was agreed to.

Dr. Pattabhi Sitaramayya suggested that Hyderabad and Kashmir might require special treatment; it was agreed that this was not a matter for the present joint meeting of the two sub-committees to consider.

6. It was also agreed that after the completion of the elections, the Rulers concerned might make a formal notification stating the names of the persons selected and cause it to be communicated to the President of the Constituent Assembly. This would correspond to the letter of credentials

granted to British Indian representatives in the Constituent Assembly and would at the same time meet one of the points taken on behalf of the Rulers.

7. The sub-committees then proceeded to consider how single-member States or groups of States were to select their representatives. It was agreed that they should be elected by the nominated element in the legislatures or other representative bodies. It would, of course, be open to any Ruler or group of Rulers to throw open the seat to unrestricted election as has been done by the Ruler of Cochin.

8. The next question considered was how the multi-member groups of States were to make their selections. It was agreed that so far as the elected quota was concerned, there should be an electoral college in which the States in the group would be represented on a population basis and the requisite number of members would be elected by this college. The remaining representatives would be elected by an electoral college consisting of the Rulers of the several States themselves.

9. Finally, the procedure for selecting the representatives of the residuary group was discussed. It was agreed that the best method would be for the two Negotiating Committees to consult such persons as they chose and then to sit together and agree upon the 4 members to be selected.

10. The procedure and other arrangements for holding the necessary elections are to be left to the States concerned.

#### ANNEXURE

1 States	2 Total number of seats	3 Elected quota on plan 'A'	4 Elected quota on plan 'B'
<i>Multi-member single States :</i>			
Hyderabad . . . . .	16	8	11
Mysore . . . . .	7	4	5
Kashmir . . . . .	4	2	3
Gwalior . . . . .	4	2	3
Baroda . . . . .	3	2	2
Travancore . . . . .	6	4*	4
Cochin . . . . .	1	1*	1
Udaipur . . . . .	2	1	1
Jaipur . . . . .	3	2	2
Jodhpur . . . . .	2	1	1
Rewa . . . . .	2	1	1
Patiala . . . . .	2	1	1

\*These are the figures agreed to by the States concerned.

1	2	3	4
States	Total number of seats	Elected quota on plan 'A'	Elected quota on plan 'B'
<i>Multi-member groups of States :</i>			
Rajputana group . . . . .	3	2	2
Central India group . . . . .	3	2	2
Western India group . . . . .	4	2	3
Gujarat group . . . . .	2	1	1
Deccan group . . . . .	2	1	1
Punjab group . . . . .	3	2	2
Orissa group . . . . .	4	2	3
Chhattisgarh group . . . . .	3	2	2
Residuary group . . . . .	4	2	3
<i>Single-member States and groups of States excluding Cochin</i>	13	..	..
TOTAL	93	45	54

### March 6, 1947

The Joint Sub-Committee appointed by the British Indian and the States Negotiating Committees met today at 3 P.M. in Room No. 28, Council House. All the members were present.

2. The Committee had a general discussion on various points connected with the return of elected representatives from the Indian States to the Constituent Assembly.

3. The Committee agreed that where a Ruler throws open the entire representation of the State to election by the legislature, the election will be by all non-official members of the legislature, elected and nominated, unless the Ruler excludes the nominated members.

### March 23, 1947

The Joint Sub-Committee appointed by the British Indian and the States Negotiating Committees met today at 3 P.M. in Room No. 28, Council House. All the members were present.

2. The Committee considered a letter which was sent by Mr. M. A. Srinivasan, Vice-President, Executive Council, Gwalior Government, to the Chancellor, Chamber of Princes, in which it was proposed that one of the 4 seats

allotted to Gwalior would be filled by nomination by the Maharaja and the remaining 3 through election by a joint session of the two Houses of the State Legislature at which all the members present, except officials, would vote. It was decided not to recommend any departure from the general formula agreed upon by the two Negotiating Committees, viz., that unless all the 4 seats were thrown open to election, in which case all non-officials could take part in the election, at least 2 should be elected by the elected members of the Legislature.

3. It was decided that the next meeting of the Joint Sub-Committee would be held on Monday the 7th April. The time and place of the meeting would be intimated to the members later.

*April 24, 1947*

*Present :* Sir Sultan Ahmed, Mir Maqbool Mahmood, Dr. B. Pattabhi Sitaramayya, Sir N. Gopalaswami Ayyangar, Mr. H. V. R. Iengar.

One of the members sought to reopen the consideration of the proposal made by Mr. Srinivasan, Vice-President, Executive Council, Gwalior, to have three out of the four seats allotted to Gwalior to be filled through election by a joint session of the two Houses of the State legislature at which all members, except officials, would vote. It was decided to postpone consideration of this matter to a later date, when, it was expected, Mr. Srinivasan would himself come and explain the details of the proposals to the Sub-Committee. Mir Maqbool Mahmood said that both he and Sir Sultan would be away for the next few days, but that they would agree to any proposal that was acceptable to the rest of the Committee in this matter.

2. The following further decisions were taken :—

- (i) The claim of Cochin and Indore for an additional seat each was negatived.
- (ii) Pudukottai, Banganapalle and Sandur should be transferred from the Residuary Group XVII to Group XIII (Deccan States).
- (iii) The claim of Cutch for a separate seat was not accepted.
- (iv) The claim of Junagadh for a separate seat was also negatived. It was brought to the notice of the Sub-Committee that the Special Committee of Ministers constituted by the Chamber of Princes had made a recommendation for a separate seat for Junagadh, but that it was strongly objected to by Nawanagar, Cutch and certain other maritime States in Group No. XII.
- (v) The proposal to transfer Jafrabad from Group XII-A to Group XII was accepted.
- (vi) The proposal to place Eastern States and Chhattisgarh States in one group and to give that group a total number of seven seats was not agreed to. The original proposal made by the two Secretariats would stand.

(vii) There would be no objection to grouping all the Constituent States of the Chamber of Princes within the Residuary Group XVII into their original groups, or, if this was impossible, to giving them jointly three seats in all-India group, provided it was done by agreement and the following two conditions were satisfied:—

(a) the total representation of the States or the groups affected is not disturbed, and

(b) either the States in the groups concerned form themselves into a Union including the Constituent States or the other States in the group have no objection to the Constituent States being included with them for the purposes of representation in the Constituent Assembly.

3. A letter which was received from Rev. J. J. M. Nichols-Roy\*, relating to the Assam States was placed before the Sub-Committee. It was decided that the proposal made therein for the joint representation of the two Groups of States on the Eastern Frontier, viz., (1) Sikkim and Cooch Behar and (2) Tripura, Manipur and the Khasi States, could be agreed to only if the conditions laid down in paragraph 3 of the "Note on the allocation of seats" prepared by the two Secretariats† were complied with.

June 5, 1947

*Present* : Sir V. T. Krishnamachari, Sir Sultan Ahmed, Mir Maqbool Mahmood, Sir N. Gopalaswami Ayyangar, Dr. B. Pattabhi Sitaramayya, Sir B. N. Rau, Mr. H. V. R. Iengar.

The points for discussion as in the note‡ circulated by Mr. Iengar were taken up *seriatim*. The following decisions were arrived at :

*Item 1* : The Secretariat of the Constituent Assembly should now take over the work in connection with the selection of the Indian States representatives. In order to ensure that those States who wish to join the Constituent Assembly now may be represented at the next session of the Assembly, which is expected to commence early in July, it was essential that States should be asked to send in the names of their representatives by the 30th June. As regards individual States, they were to be informed of this date and also that it was hoped that they would send in the names of their representatives by that time. This date should be communicated to the groups of States, and in addition they were to be told that unless they decided by a specified date whether they would enter the Constituent Assembly or not, those States in the group who wished to participate in the work of the Constituent Assembly would be free to choose the full quota of

\*See Document No. 91(xvii) *supra*.

†See Document No. 91(xii) *supra*.

‡Not reproduced

representatives allotted to that group. The Secretariat of the Constituent Assembly is to select in consultation with Mir Maqbool Mahmood persons in various groups of States who may be addressed on this subject, copies to be sent simultaneously to the other States in the group.

*Item 2 :* The arrangements proposed by the All India Constituent States Union for the selection of seats in the Residuary Group XVII were accepted in principle, but Mr. Iengar and Mir Maqbool Mahmood were asked to examine the details of the scheme so as to ensure that the selection of representatives for this group is in accordance with the understanding reached between the two Negotiating Committees.

Raja Saheb of Bhagat was to be addressed in this matter.

*Item 3 :* The draft standing orders to govern bye-election in respect of seats allotted to the States representatives in the Constituent Assembly were approved subject to minor alterations. (See Appendix.)

*Item 4 :* Postponed.

*Item 5 :* The request received from the Raja Saheb of Akalkot that his State be removed from the Deccan States Group XIII and grouped separately with the Madras States, Pudukottai, Banganapalle and Sandur, for purposes of representation in the Constituent Assembly was not accepted.

## APPENDIX

### DRAFT STANDING ORDERS

When a vacancy occurs by reason of death, resignation or otherwise in the office of a member of the Assembly representing an Indian State, the President shall notify the vacancy and make a request in writing to the Ruler of the Indian State concerned to proceed to fill the vacancy, as soon as may reasonably be practicable, by election or nomination, as the case may be.

2. In the case of a vacancy in the office of a member of the Assembly representing more than one Indian State the President shall notify the vacancy and make a request in writing to the Rulers of the Indian States concerned, to proceed to fill the vacancy, as soon as may reasonably be practicable, in the same manner as the outgoing member was chosen.



SUMMARY OF THE DISCUSSIONS HELD AT BOMBAY  
BY THE RULERS OF PRINCELY STATES AND  
THEIR MINISTERS  
March-April 1947

*[At the last joint meeting of the States Committee of the Constituent Assembly and the Negotiating Committee of the Chamber of Princes held on March 2, 1947, it was agreed that the latter would place the conclusions reached at the joint meetings of the two Committees before a general conference of "Rulers and representatives of States for ratification at an early date". A meeting of the Committee of Ministers of the Chamber of Princes was held at Bombay on March 30. It was followed by a meeting of the Standing Committee of the Chamber of Princes and a conference of the Rulers on April 1 and 2 respectively. A summary of the discussions held at Bombay is reproduced below.]*

A MEETING OF the *Committee of Ministers* of the Chamber of Princes was held on the 30th March 1947 to consider the attitude to be adopted by the Princes towards the Constituent Assembly, in view particularly of H.M.G.'s declaration of February 20th that final transfer of power would take place by June 1948.\* The Committee was presided over by Sardar D. K. Sen.

2. The Committee considered that the main differences between the major political parties could only be whether an agreed basis of co-operation on the three subjects of Defence, External Affairs and Communications should be embodied in an agreed constitution or in a multilateral convention, agreement or treaty. The Committee, therefore, thought that the differences between the parties might be resolved at a *round table conference*. The Committee also considered the position of States in the event of more than one sovereign Government coming into power in British India with the final transfer of power. They classed the States in three categories (i) those States or groups of States which might find it necessary to enter into a federal relationship with one of the successor Governments or which might prefer to enter into particular political arrangements with one or more of those Governments ; (ii) those States or groups of States which might form

\*See Document No. 84(i) *supra*.

themselves into confederations and through such confederations enter into special arrangements with the Governments of adjoining areas of British India and the States; (iii) those States or groups of States which are so situated geographically that they might have to enter into arrangements with more than one Government in British India.

3. A day before the meeting of the Committee, a spokesman on behalf of those States which had decided to take an independent stand, clarified their position as follows. He said that the time for gatherings of Princes was long past because (i) the Chamber of Princes itself was a Government organisation; and (ii) since the question of allocation of seats had already been determined, the only remaining issue was for individual States to make up their minds. The States which had already taken their decision to participate in the Constituent Assembly would not be bound by any decision to be taken by the Conference of Princes which had no constitutional authority of any kind and was an *ad hoc* gathering of small States and in the absence of participation by such States as Hyderabad, Kashmir, Travancore, etc., a completely unrepresentative body.

4. The suggestions made by the Committee of Ministers for a round table conference of the major political parties and of the Indian States was commended by the Chancellor to the States' Constitutional Advisory Committee for acceptance at their meeting held on the 31st March 1947. The Chancellor said that the agreement of the major political parties in British India was the essence of the plan of May 16, and that the Princes were the only party which had strictly adhered to the plan. The Princes would under no circumstances allow the whittling down of the plan in any manner. They would also insist on the Constituent Assembly accepting the fundamentals of the resolution of the Conference of Rulers passed in January 1947\*; and participation by States' representatives in the deliberations of the Constituent Assembly could only be at the final phase, namely, at the time of framing the Union Constitution. The Nawab of Bhopal's attitude was opposed by the Maharaja of Bikaner and the Prime Minister of Udaipur, who were in favour of immediate participation.

5. The matter was then placed before the Standing Committee of the Chamber of Princes on the 1st April 1947. It is reported that the Maharaja of Bikaner expressed his strong dissent from the view of the majority and was in favour of immediate participation by States in the work of the Constituent Assembly. He then walked out of the meeting and refused to participate any further in its deliberations. Following this an informal meeting of the members of the Standing Committee considered the position. The Maharaja of Gwalior and Mr. M. A. Srinivasan, Foreign Minister of Gwalior strongly pleaded for certain modifications so as to meet the views of the groups of States led by Bikaner. After a discussion the Chancellor said

\*See Document No. 91(iii) *supra*.

that he would agree to certain modifications in the resolution.

6. The resolution drafted by the Standing Committee as a result of these discussions is attached\*. The most important feature of the resolution is that it permits the representatives of any State which so desires to join the Constituent Assembly at the appropriate stage when that Assembly meets. This is subject to the *proviso* that such participation should be conditional on the acceptance by the Constituent Assembly of the general understanding reached between the two Negotiating Committees.

7. The resolution also makes the following points :

(1) All rights surrendered by States to the Paramount Power will revert to them, and they will be in a position as independent rulers to negotiate freely in regard to their future relationship with others concerned.

(2) The resolution emphasises the urgency and importance of suitable action being taken where needed in regard to internal reforms.

(3) The Chancellor and the Standing Committee should conduct negotiations in regard to the following matters :

(a) with the Crown Representative in regard to matters relating to the lapse of paramouncy ; and

(b) with the Interim Government and competent British Indian authorities regarding States' treaties.

The resolution was unanimously passed by the Conference of Rulers on 2.4.47†.

8. It may also be mentioned that Sir B. L. Mitter, the Dewan of Baroda in a statement said that the States Negotiating Committee was satisfied with the general understanding reached when it met the British Indian Negotiating Committee in February 1947. There was no risk in the States going into the Constituent Assembly now since it was well recognised that no State would be bound to accept the Constitution till the full picture is ready. The States could contribute to the discussions regarding fundamental rights, minorities, tribal and excluded areas and other such essential matters now under discussion.

\*See Document No. 91(xvi) *supra*.

†*Ibid*.

## REPORT OF THE STATES COMMITTEE

April 24, 1947

*[The Committee appointed to negotiate with the States Negotiating Committee, referred to as 'the States Committee' of the Constituent Assembly, submitted its report to the President of the Constituent Assembly on April 24, 1947 after it had succeeded in securing agreement on the method of distribution of the 93 seats in the Constituent Assembly allotted to the States under the Cabinet Mission's plan and on the manner of selecting the States' representatives to fill these seats. The report was presented to the House on April 28, 1947. While moving it for adoption, Jawaharlal Nehru explained the scope and the nature of negotiations held and agreement reached with the representatives of the States and the States Negotiating Committee appointed by the Chamber of Princes. The report of the States Committee and Nehru's speech are reproduced below.]*

## (I) REPORT OF THE COMMITTEE

BY A RESOLUTION of the Constituent Assembly passed on the 21st December 1946, the following members, viz.

- (1) The Hon'ble Pt. Jawaharlal Nehru,
- (2) The Hon'ble Maulana Abul Kalam Azad,
- (3) The Hon'ble Sardar Vallabhbhai J. Patel,
- (4) Dr. B. Pattabhi Sitaramayya,
- (5) Mr. Sankarrao Deo,
- (6) The Hon'ble Sir N. Gopalaswami Ayyangar,

were appointed as a Committee to confer with the Negotiating Committee set up by the Chamber of Princes, and with other representatives of Indian States, for the purpose of :

- (a) fixing the distribution of the seats in the Assembly not exceeding 93 in number, which in the Cabinet Mission's statement of May 16, 1946, are reserved for Indian States,
- (b) fixing the method by which the representatives of the States should be returned to the Assembly,

and thereafter to report the result of such negotiations. By a further resolution passed on the 21st January 1947, we were empowered to confer with

such persons as we thought fit, for examining the special problems of Bhutan and Sikkim, and to report to the Assembly the result of such examination. This report deals only with the negotiations conducted by us in pursuance of the resolution of the 21st December.

2. The first series of our joint meetings with the States Negotiating Committee were held on the 8th and 9th February, 1947. The discussion largely centred on the scope of subjects to be negotiated between the two committees. It was urged by the States Negotiating Committee that there had been no decision yet on the part of the States to enter the Constituent Assembly, and that it would not be possible for them to decide this issue till they received satisfactory assurances on a number of points mentioned in the resolution adopted on the 29th January, 1947, by the General Conference of Rulers (Appendix A).<sup>\*</sup> On the other hand, we pointed out that most of those points could only be discussed by a fully constituted Constituent Assembly including the representatives of the States; they were in any case clearly beyond our competence as a committee, our own functions being limited to the matters laid down in the resolution of the Constituent Assembly passed on the 21st December, 1946. But while we were not prepared as a committee to discuss matters going beyond our mandate, we raised no objection to discussing, in a friendly and informal manner as individuals, certain difficulties, and to removing certain misapprehensions which seemed to be causing concern to the Princes. The more important of the points cleared up in the course of these discussions were summarised by Pandit Nehru as follows :

The first thing to be clear about is to proceed with the full acceptance of the Cabinet Mission's statement. Apart from the legality of that Statement one thing also seems to me obvious, namely, that the scheme is essentially a voluntary one, where no compulsion, except, as I said, compulsion of events, is indicated. No doubt, so far as we are concerned, we accept it as a voluntary scheme where people may join as individuals, as groups, or Rulers or otherwise. We are not trying to force any to join if they do not want to. It is a matter for negotiation throughout. Now, to go back, apart from the acceptance of the scheme which is basic, some points were raised yesterday. One was about the monarchical form of Government. That question has not arisen at all in the Constituent Assembly nor, so far as we can see, does it arise at all from the statement. But it has been repeatedly stated on our behalf in the Constituent Assembly as outside that we have no objection to it, we accept that, and we do not want to come in the way of the monarchical form of Government at all. This has been made perfectly clear.

Another point that we raised in our discussion yesterday was about some apprehension about territorial readjustments. I tried to point out that the resolution passed by the Constituent Assembly had no reference in the minds of those who framed the resolution or who proposed it there, to

<sup>\*</sup>See Document No. 91(iii) *supra*.

any change regarding the States. It has no relation to the States. It was an indication that there will be provision made in the Constitution or in the process of re-grouping units, etc., where some changes may have to be made. It had no reference to changing boundaries. I can concede territorial boundaries being changed for economic reasons, for facilitating governmental purposes, etc., but any such territorial readjustments, we are quite clear, should be made with the consent of the parties concerned, and not be forced down. I say, for the moment we are not thinking in terms of any such thing, but if this question arises, it should be essential that the parties concerned should consent to it.

The scheme, as has already been stated, is a voluntary one, and whether in regard to the entry into the Constituent Assembly or subsequently when the Constituent Assembly decides and comes to conclusions there will be no compulsion, and the States will have the right to have their say at any stage just as anybody else will have the right to have their say at any stage. So the coercive factor must be eliminated from that.

In regard to some confusion which has possibly arisen in regard to subjects and powers, we go on what the Cabinet Mission's statement specifically says. The Cabinet Mission's statement said: "The States will retain all subjects and powers other than those ceded to the Union." That is perfectly clear, we accept that statement, we accept that entirely. Generally speaking, those are the matters that came up yesterday in the course of discussion, and perhaps we might proceed on that basis and consider matters now.

We further explained that the Constituent Assembly could not possibly take up the position that they were not prepared to discuss matters with States not represented on the Chamber of Princes Negotiating Committee; or with representatives of State peoples, as that would involve an element of compulsion which was contrary to their conception of the scheme.

3. A general understanding having been arrived at, as a result of the above exchange of views, the States Negotiating Committee proceeded to consider the two matters on which we had been asked to negotiate by the Constituent Assembly. After a preliminary discussion, it was decided that the question of the distribution of the 93 seats should be referred to the Secretariats of the Constituent Assembly and the Chamber of Princes, and their recommendations placed before the next meeting of the two Committees on the 1st March, 1947.

4. In the meanwhile, the Dewan of Baroda had asked for direct negotiation with us on the representation of Baroda in the Constituent Assembly. We accordingly met Sir B. L. Mitter on the 9th February. In the course of our discussion, he made it clear that it was the decision of the Baroda State, both the Ruler and the people, to give the fullest co-operation to the Constituent Assembly in its work and that they were prepared to take steps forthwith for the selection of representatives so that these could take part in the work of the Assembly at the earliest possible date. It was agreed between us and the Dewan that Baroda should have regard to

its population, send three representatives and that these should be elected by the *Dhara Sabha* (the State legislature) on the principle of proportional representation, by means of the single transferable vote, and that only its elected and nominated non-official members should take part in the election.

5. The next joint meeting of the two Committees was held on the 1st March, 1947. At this meeting we urged that H.M.G.'s declaration of the 20th February had introduced an additional element of urgency in our task and that it would be greatly to the advantage of the States no less than to the British Indian representatives in the Constituent Assembly if States' representatives could join the Assembly during April session. We pointed out that there was nothing in the State Paper of the 16th May which operated as a bar against States doing so. We also suggested that it would be to our mutual advantage if States' representatives could function forthwith on some of the committees set up by the Constituent Assembly, particularly the Union Powers Committee and the Advisory Committee on fundamental rights, etc. The States Negotiating Committee, however, expressed their inability to take these steps in the absence of a mandate from the General Conference of Rulers whom they promised to consult at an early date.

6. The discussion then turned on the method of distribution of the 93 seats allotted to the States. The Committees approved of the distribution as proposed by the two Secretariats (Appendix B)\* and authorised the making of such minor modifications as are considered necessary by the parties concerned.

7. After this, we discussed the method of selecting representatives. Various proposals were made and discussed in a joint sub-committee set up for the purpose. Eventually, after a consideration of the sub-committee's report, the following formula was accepted by both Committees, viz., that no less than 50% of the total representatives of States shall be elected by the elected members of legislatures or, where such legislatures do not exist, of other electoral colleges. The States would endeavour to increase the quota of elected representatives to as much above 50% of the total number as possible.

This formula has since been ratified by the General Conference of Rulers held on the 2nd April. A copy of the resolution passed by the Conference is attached (Appendix C).†

We pointed out that in regard to two States, viz., Hyderabad and Kashmir, elections to their legislatures had been boycotted by important organisations representing the people of the States concerned, and the legislatures therefore could not be considered to represent the people as they were intended to

\*See Document No. 91(xii) *supra*.

†See Document No. 91(xvi) *supra*.

do. In the cases of these two States, we suggested that a suitable method of electing representatives for the Constituent Assembly should be devised. The Chancellor said that he would communicate the suggestion to the States concerned.

2. A Committee consisting of the following members : (1) Dr. Pattabhi Sitaramayya; (2) Sir N. Gopalaswami Ayyangar; (3) Sir V. T. Krishnamachari; (4) Sir Sultan Ahmed; (5) Sir B. N. Rau; (6) Mir Maqbool Mahmood; (7) Mr. H. V. R. Iengar was set up to consider the modifications referred to in para 6 above and other matters of detail that might arise from time to time, and to report, if necessary, to the two Negotiating Committees.

We have been informed that the States of Baroda, Jaipur, Jodhpur, Rewa, Cochin and Bikaner have already selected their representatives in accordance with the agreement arrived at. These representatives have been invited to take their seats at the forthcoming session of the Assembly. The States of Patiala, Udaipur, Gwalior and Bhavanagar have also announced that they will take part in the work of the Constituent Assembly.

JAWAHARLAL NEHRU

A. K. AZAD

VALLABHBHAI PATEL

N. GOPALASWAMI

SHANKARRAO DEO

B. PATTABHI SITARAMAYYA

## (II) NEHRU'S SPEECH MOVING THE REPORT FOR CONSIDERATION

April 28, 1947

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The House will remember that this Committee was appointed for a specific purpose—for fixing the distribution of seats of the Assembly not exceeding 93, and for fixing the method by which the representatives of the States should be returned to the Assembly. These were the definite directions given to us and we proceeded accordingly, but when we met the Negotiating Committee appointed by the Chamber of Princes, other questions were raised. We were confronted by various Resolutions passed by organizations of the Princes. We informed them that we had no authority to deal with any other matter. Our authority was limited to dealing with these two specific matters. Indeed we went a little further. We said we rather doubted the authority even of the Constituent Assembly to deal with all manner of other matters, that is to say, the Constituent Assembly as it is constituted at present. But in any event we were so anxious to get going, so anxious to remove any misapprehensions that might exist, that some of us had further conversations with them and some doubts that they raised were removed in the



course of those conversations; some questions that were asked were answered informally, personally if you like, on our behalf because it was not open to us to go beyond the terms of the mandate that you gave us. You will see a reference to that in the Report that is presented to you, in particular because—I am bound to make this point perfectly clear—a few important points were raised by them in the course of those discussions. As it happened, what I said in reply to those questions had more or less been said by me in this House before or by other Members of this House, and therefore I had no difficulty in saying it to them, because otherwise I would have had this great difficulty of saying anything which the House might not approve, or might disapprove as wrong. All of us have certain views in this matter and on one of the occasions when I addressed this House in connection with the Objectives Resolution, I referred also to the States and to the Princes and made it clear that while I, in my individual capacity, held certain views, those views did not come in the way of my stating what the Constituent Assembly stood for, and what its range of activities was going to be. I said then that, while we were deciding in favour of a Republic for the whole of India, that did not bar any State from continuing the monarchical form of Government so far as that State was concerned, provided, of course, that they fitted in the larger picture of freedom and provided, as I hope, that there was the same measure of freedom and responsible government in the State. So when these questions were raised, I had no particular difficulty in answering them because in effect they had been mentioned in this House previously.

What were those questions? First, of course, was—it was an unnecessary question—as to the scope of our work, that is to say, how far we accepted the Cabinet Mission's statement of May 16, 1946. We have accepted it, and we are functioning in accordance with that statement. There the matter ends. I do not know what future changes may take place and how these changes might affect our work. Anyhow, we have accepted that statement in its fullness and we are functioning accordingly.

That leads inevitably to another conclusion, viz., that such subjects, as did not come within the scope of the Union, were subjects to be dealt with by the units—by the States and the provinces—and that has been clearly laid down in the Cabinet Mission's statement. So we said there and we made that clear. What the Union subjects might or might not be is a matter for careful consideration by this House now. But any subjects which did not come within the scope of the Union subjects necessarily are subjects left over to the units.

Further it was stated that the business of joining the Constituent Assembly or accepting the scheme or not accepting it was entirely their own. As Mr. Panikkar has pointed out, there was no coercion, there can be no coercion either to a State, a province or to any other part of India, which is participating in this Assembly. There can be no coercion, except,

of course, the coercion or compulsion of events and that is certainly a compelling factor and a very big factor which none of us can ignore. So there is no question of compulsion ; but at the same time it is true that if certain units or parts of India decide to come in, accepting their responsibilities, they get certain privileges in return, and those who do not come in do not get those privileges as they do not shoulder those responsibilities. That is inevitable. And once that decision has been taken by a unit, State or other, other consequences inevitably follow, possibly widening the gulf between the two: that is the compulsion of events. Otherwise it is open to any State to do as it chooses in regard to this matter of coming in or not coming in. So that matter has been made clear.

The only other important matter that was raised in this connection was the monarchical form of Government in the States. As I stated in this House previously, in the world today this system of rule by monarchy, whatever good it may have done in the past, is not a system that might be considered to be popular. It is a passing institution: how long it will last I do not know. But in this matter my opinion is of little account. What counts is what this Assembly desires in this matter: what it is going to do: and we have made it clear on a previous occasion that we do not wish to interfere in the internal arrangement of the States. It is for the people of the States to decide what they want and what they do not want. The question, in fact, does not arise in this Assembly. Here we are dealing with Union matters, subjects of fundamental rights and the like. Therefore this question of the monarchical form of Government in the States did not arise here and I told them that so far as we were concerned we were not going to raise that particular subject here.

Lastly, there was the question or rather the misapprehension due to certain words in the Objectives Resolution of this Assembly, where some reference has been made to territorial boundaries being changed. The House will remember that that had no connection with the States as such. That was a provision for further adjustments as they are bound to be involved. Further it was a provision for suitable units to come into existence, which can be units of this Indian Union. Obviously one cannot have very small units or small fractions of India to form part of the Union. Some arrangement has to be made for the formation of sizable units. Questions arise today and will arise tomorrow even about the division of provinces. There is very strong feeling about it. We are discussing today, though for other reasons, about the division of certain provinces like the Punjab and Bengal. All these have to be considered but this has nothing to do with the provision in the Objectives Resolution. The point has been settled in the Negotiating Committee that any changes in territorial boundaries should be by consent.

Those were the statements I made on behalf of our Negotiating Committee to the other Committee and those statements removed a number of

misapprehensions and we proceeded ahead with the consideration of other matters.

Among the other matters was, firstly, the question of the distribution of seats. We decided to refer this matter to the two Secretariats—the Secretariat of the Constituent Assembly and that of the Chamber of Princes. We referred this matter, I think, at 1-30 P.M. one day. Those two Secretariats met, I think, at 3 P.M. the same day and by 5 P.M. they arrived at an agreed procedure. That was rather a remarkable thing which is worth remembering. It is true that the rules governing the distribution were to some extent laid down in the Cabinet Mission's scheme—one seat per million, that is, 93 seats in all. Unfortunately, these matters of distribution are difficult and often arouse great controversies and arguments. Nevertheless these two Committees met together and I am very glad that the Secretariat of the Constituent Assembly was helped by the representatives of the States to come to an agreed solution within two hours. That showed that if we approach any of these apparently difficult problems with goodwill, we find solutions and we find rapid solutions too. I do not mean to say that that solution in regard to the distribution of these seats was a perfect one. Since the agreement was reached, certain objections have been raised and criticisms have been made in regard to the grouping of the States here and there. Ultimately we left it to a sub-committee—a joint Committee of our Negotiating Committee and the States Negotiating Committee—to consider this matter and to make such minor alterations as they thought fit and proper. Now because of these grouping difficulties, a number of States, which might be represented here, are not here. That is to say, the States concerned want to come in and they are quite prepared to do so but the group has not begun to function. Therefore individually they are prevented from coming in. Only yesterday I was informed that one important State, the State of Cutch, was eager and anxious to come in but they formed part of a group of Kathiawar and other States, rightly or wrongly, and till the whole group gets into motion, they do not know how to come in separately. This is a matter to be considered by the Sub-Committee. But the point I want to put before the House is this that in this matter as soon as we came to grips with the subject and gave up talking in vague generalities and principles or rights of this group and that group, we came to a decision soon enough and that is a good augury for our work in future, whether it relates to the people of the States or to the rest of India or to any group in India.

We, who meet here, meet under a heavy sense of responsibility—responsibility not only because the task which we have undertaken is a difficult one or because we presume to represent vast numbers of people, but because we are building for the future and we want to make sure that that building has strong foundations, and because, above all, we are meeting at a time when a number of disruptive forces are working in India, pulling us this

way and that way, and because, inevitably and unfortunately, when such forces are at work, there is a great deal of passion and prejudice in the air and our whole minds may be affected by it. We should not be deflected from that vision of the future which we ought to have, in thinking of the present difficulties. That is a dangerous thing which we have to avoid, because we are not building for to-day or tomorrow; we are making or trying to make a much more enduring structure. It is a warning which the House will forgive me, if I repeat—that we must not allow the passion and prejudice of the moment to make us forget what the real and ultimate problems are which we have to solve. We cannot forget the difficulties of the present because they come in our way all the time. We have to deal with the problems of the present, and in dealing with them, it may be, unfortunately, that the troubles we have passed through all these years may affect us, but, nevertheless, we have to get on. We have to take quick decisions and final decisions in the sense that we have to act on them. We have to be realists, and it is in this spirit of realism, as also in a spirit of idealism, that I say that our Negotiating Committee approached this task.

The House knows that some of the members of the Committee have been intimately associated with the struggle of the peoples of the State for their freedom. The more I have been associated with that struggle, the more I have seen that it cannot be separated from the all-India problem; it cannot be isolated. It is an essential and integral part of the all-India problem, all-India structure, just as the States are an integral part of India. You cannot separate them. And with all my anxiety to further the progress of the people of the States with such strength as is in me in my individual or other capacities, when I met the Negotiating Committee I had to subordinate my individual opinions because I had to remember all the time that I was representing this Constituent Assembly. I also had to remember that, above all, we had gone there not to bargain with each other, not to have heated argument with each other, but to achieve results, and to bring those people, even though they might have doubts, into this Assembly, so that they might come here and they might also be influenced by the atmosphere that prevails here. For me it was the solemnity of the task which we had undertaken, and not to talk in terms of results, or individuals or groupings, or assurances. What assurance do we seek from each other? What assurance is even this House going to give to anybody in India, except the assurance of freedom? Even that assurance will ultimately depend on the strength and wisdom of the Indian people afterwards. If the people are not strong enough and wise enough to hold together and proceed along the right path, the structure that you have built may be shattered. We can give no assurance to anybody.

With what assurance have we sought freedom for India all these years? We have looked forward to the time, when some of the dreams that we were indulging in, might become true. Perhaps, they are coming true, perhaps not exactly in the shape that we want, but, nevertheless, they will come

true. It is in that conviction that we have proceeded all these years. We had no guarantees. We had no assurance about ourselves or about our future. Indeed, in the normal course of events, the only partial guarantee that most of us had was the guarantee of tears and troubles, and we had plenty of that. It may be that we shall have plenty of that in the future too; we shall face them. This House will face it and the people of India will face it. So, who are we to give guarantees to anybody? But we do want to remove misapprehensions as far as possible. We do want every Indian to feel that we are going to treat him as an equal and brother. But we also wish him to know that in the future what will count is not so much the crown of gold or of silver or something else, but the crown of freedom, as a citizen of a free country. It may be that a time may come soon when it will be the highest honour and privilege for anybody, whether he is a Ruler or anybody else, to be a free citizen of a free India and to be called by no other appellation or title. We do not guarantee because we guarantee nothing to anybody, but that is the thing which we certainly hope to achieve and we are certain to achieve. We invite them to participate in that. We welcome those who have come, and we shall welcome those others when they come. And those who will not come—we shall say nothing about them. But, as I said before, inevitably, as things are, the gulf will widen between those who come and those who do not come. They will march along different paths and that will be unfortunate. I am convinced that, even so, those paths will meet again, and meet sooner rather than later. But, in any event, there is going to be no compulsion. Those who want to come, will come, and those who do not want to come, do not come. But there is this much to be said. When we talk about people coming in and people who do not come in, let it be remembered, as Mr. Govinda Menon said, that the people of the States—I say with some assurance and with some authority in the matter—want to come into this Assembly, and if others prevent them from coming, it is not the fault of the people, but breaks and barriers are put in their way. However, I hope that these questions will not arise in the future and that in the coming month or two nearly all the States will be represented here, and, jointly we shall participate in the final stages of drawing up the Constitution.

I am placing this resolution before the House to record the Report. There has been some argument about this matter too and people attach a great deal of importance to words and phrases and assurances and things like that. Is it not good enough that I have put it to the House? If it is not good enough, I may repeat what has been stated. Even if that is not good enough, what we have stated is there in the verbatim Report of the meetings; we have nothing to add to it, we shall stand by that. We do not go back. But the procedure to be adopted must be a correct procedure. When this Committee was appointed you asked us to report and we have reported. We had got to do something, and we tried to do that and

did it. Now, if this matter was to come up for ratification before this House before it could be acted upon, obviously, representatives of the States who are here now would not have been here. They would have been sitting at the door-steps or somewhere outside waiting for ratification, waiting for something to happen till they came in. That was not the way in which we understood our directions. We understood that we had to come to some honourable agreement and act up to it so that representatives of the States might come in as early as possible. We were eager in fact that they should join the Committees of this Assembly,—the Advisory Committee, the Fundamental Rights Committee, the Union Powers Committee and the other Committees which we have formed. It is not our fault that there was delay. At the very first joint meeting of the Negotiating Committees, we requested the States Committee to join quickly, indeed to send their representatives to these Committees of the Constituent Assembly as soon as possible. We were asked for assurances at every stage and there were delays. But the way we have understood your mandate was that we had to go ahead and not wait for ratification of every step that we had taken. We acted accordingly, and I am happy that some of the States' representatives are here today and I hope more will come. So, the question of ratification does not arise so far as this Committee's work is concerned. The Report is before you. If you disapprove of any single step that we have taken, express your disapproval of whatever might have happened, or otherwise give your directions.

The resolution I have moved is for your adoption. I shall not go into the details in regard to the distribution of the seats and the manner of selection of the delegates from the States. It was a sort of compromise. Naturally it was my desire, as it was the desire of my colleagues that the representatives of the States should be elected by the people of the States, partly because it was the right way, and partly because it was the way in which they could be fitted with the other elected elements of this House. On the other hand, I considered it right and desirable that the States governments should also be represented here to bring reality to the picture. The correct way and the right way ultimately will be for the State government itself to be representative of the people and then come in to represent them here. But we have to take things as they are. The States governments, generally speaking, do not represent the people in the democratic sense. In some places they partially represent them. Anyhow, we did consider it desirable that the State government as such, should also be represented though we would have liked the largest number of representatives to come from the people. Ultimately after a great deal of discussion it was decided that not less than 50 per cent. of the representatives should be elected by the elected members of the assemblies where they exist, or by some other method of election which may be devised. We came to a compromise on this proportion, though we would have liked the proportion to be higher.

Some of the States have actually acted as if the proportion were higher. I submit that this compromise that we came to was an honourable compromise for all parties concerned and I think it will lead to satisfactory results so far as this House is concerned, and I commend this resolution to the House.

# MINUTES OF THE CONFERENCE OF THE REPRESENTATIVES OF THE SECRETARIATS OF THE CONSTITUENT ASSEMBLY AND THE STATES MINISTRY

June 1948

*[By June 1948 most of the princely States had acceded to the Dominion of India in respect of three subjects, viz., Foreign Affairs, Defence and Communications. A number of smaller States had also merged themselves and formed bigger units—in some cases the individual States retaining their individual identity. On June 12 and 14, a conference of the officers of the Constituent Assembly Secretariat and the States Ministry, Government of India, was held for the purpose of considering the various types of mergers that had taken place and their effect on the allocation of the States' seats in the Constituent Assembly. The minutes of the conference are reproduced below.]*

*Present :* Sir B. N. Rau, CIE, Constitutional Adviser, Mr. M. K. Kripalani, CIE, ICS, Joint Secretary, Ministry of States, Mr. S. N. Mukerjee, Joint Secretary, Constituent Assembly, Mr. Jugal Kishore Khanna, Deputy Secretary, Constituent Assembly.

The Conference considered the various types of mergers that have recently taken place in regard to the Indian States and it was agreed that these mergers could be divided into two classes, namely : (1) The Orissa type, and (2) The Saurashtra type.

The Saurashtra type of merger has destroyed the identity of the component States, but the Orissa type of merger has not. The effect of the Saurashtra type of merger is to create a single Indian State, the "Ruler" of which is the Rajpramukh. In the Orissa type of merger the identity of the component States has not been lost.

2. It was agreed that, in view of the recent changes, the allocation of seats to Indian States in the Constituent Assembly would require revision and the States mentioned in the Annexure to the Schedule to the Constituent Assembly Rules would require regrouping. The regrouping of the States and the future allocation of seats to the different Indian States as



shown in the statement annexed\* hereto were approved.

3. It was also agreed that one seat should be allotted to Cutch, one seat to Junagadh and one to the States of Banganapalle and Pudukottai integrated with Madras.

4. The question of representation in the Constituent Assembly of the various States which have now undergone changes as a result of mergers was then considered. The Conference were of opinion that there might be three ways of dealing with the representation of such States in the Constituent Assembly:

- (1) All the sitting members representing such States should, as far as possible, be allowed to retain their seats and it is only when a vacancy occurs in the seat of any such member, that it should be filled by representatives chosen by the new Union or group of States.
- (2) The seats of all nominated members representing such States should be declared vacant and should be filled by representatives elected by the new Union or group of States.
- (3) The seats of all the members representing such States should be declared vacant and should be filled by representatives elected by the new Union or group of States.

5. The last of the three alternatives would undoubtedly be the most satisfactory but for one practical difficulty. If the seats of all the members representing these States are declared vacant at once, it may take a long time to fill the vacancies and the States will go unrepresented in the Dominion legislature or the Constituent Assembly during the interval. To get over this difficulty it will be necessary to provide that although the seats may be declared vacant, the declaration will be subject to the proviso that the sitting members will continue to hold office until the members that are to take their place have been duly elected by the new Units and have taken their seats. Even so, the existing Groups of the various States for purposes of representation in the Constituent Assembly as well as the existing representation will have to be revised and the sitting members re-allocated in accordance with the scheme detailed in the statement annexed hereto.

6. As regards the filling of vacancies, it was agreed that in the case of Unions of States of the Saurashtra type, the Rajpramukhs, in the case of Unions of States of the Orissa type, the Governor of the Province with which the States have been integrated or the Chief Commissioner of the new unit, and, in the case of Junagadh, the Administrator of Junagadh, should be requested to take steps to fill vacancies by election, the representatives to be elected by the elected members of the legislatures of the new units or where such legislatures do not yet exist, by the members of electoral colleges constituted in accordance with the provisions made in this behalf

\*Not reproduced; See annexure to Document No. 98 for a revised version of this statement.

by the Rajpramukh, the Provincial Government, the Chief Commissioner or the Administrator, as the case may be.

7. It was further agreed that in filling vacancies in the seats of representatives allocated to the new units as shown in the statement, the States or groups of States which had individual representation under the existing rules should be treated as separate constituencies of the new units, as for instance, in the Malwa Union (1) Gwalior, (2) Indore and (3) the rest of the States would form three separate constituencies of the Union for the purpose of electing representatives to the Constituent Assembly.

8. It was also agreed that the position of the Residuary Group of States should be clarified further. Under the existing grouping of States the Residuary Group consisted of about 400 States with a population of 3.77 million. The figures supplied by the Ministry of States account for 759 of such States with a population of 1.92 millions. These figures require reconciliation. Mr. Kripalani promised to supply a complete list of the 759 States with their names and population.

MINUTES OF THE CONFERENCE OF THE  
RAJPRAMUKHS OR UP-RAJPRAMUKHS OF STATES'  
UNIONS AND THEIR PREMIERS, AND THE  
PREMIERS OF CERTAIN PROVINCES

July 17, 1948

*[The proposals for revising the allocation of the States' seats in the Constituent Assembly consequent on their mergers etc., worked out at the Conference of the Officers of the States Ministry and the Constituent Assembly Secretariat (see Document No. 97), were formally discussed at a conference of the Rajpramukhs or Up-Rajpramukhs of States' Unions and their Premiers, and the Premiers of Madras, Bombay, C.P. & Berar, Orissa and Vindhya Pradesh and the Chief Commissioners of Cutch and Himachal Pradesh. The Conference arrived at certain agreed decisions in regard to the necessary regrouping of States and filling of vacancies under a scheme of reallocation of seats. The minutes of the Conference are reproduced below.]*

*Present :* (1) The Hon'ble Sardar Vallabhbhai Patel (*in the Chair*), (2) The Hon'ble Dr. Rajendra Prasad, (3) The Hon'ble Shri O. P. Ramaswamy Reddiar, Premier, Madras, (4) The Hon'ble Shri B. G. Kher, Premier, Bombay, (5) The Hon'ble Pandit Ravi Shanker Shukla, Premier, C. P. & Berar, (6) The Hon'ble Shri Hare Krushna Mahtab, Premier, Orissa, (7) H. H. The Maharaja of Gwalior, Rajpramukh, Madhya Bharat Union, (8) H. H. The Maharaja of Patiala, Rajpramukh, Patiala and East Punjab States Union, (9) H. H. The Maharaj Rana of Dholpur, Rajpramukh, Matsya Union, (10) H. H. The Maharaja of Bhavnagar, Up-Rajpramukh, Saurashtra Union, (11) H. H. The Maharao of Kotah, Up-Rajpramukh, Rajasthan Union, (12) Shri Liladhar Joshi, Premier, Madhya Bharat Union, (13) Shri Manikya Lal Varma, Premier, Rajasthan Union, (14) Shri U. N. Dhebar, Premier, Saurashtra Union, (15) Shri Sobha Ram, Premier, Matsya Union, (16) Capt. Awadhesh Pratap Singh, Premier, Vindhya Pradesh, (17) Mr. N. C. Mehta, Chief Commissioner, Himachal Pradesh, (18) Mr. C. K. Desai, Chief Commissioner, Cutch.

*States Ministry :* (1) Shri V. P. Menon, Secretary, (2) Shri M. K. Kripalani, Joint Secretary, (3) Shri N. M. Buch, Joint Secretary.

*Constituent Assembly Secretariat* : (1) Sir B. N. Rau, Constitutional Adviser, (2) Shri S. N. Mukerjee, Joint Secretary, (3) Shri K. V. Padmanabhan, Under Secretary.

The Hon'ble Sardar Patel started the proceedings with a brief explanation of the main purpose of the Conference. He referred to the vacancies which had arisen in respect of the seats allotted to Indian States in the Constituent Assembly and to the urgent need for devising a suitable method for filling them. In the ordinary course these vacancies would have been filled in accordance with the rules of the Constituent Assembly, but certain difficulties had arisen on account of the recent changes which had occurred in the position of the Indian States. He said that Sir B. N. Rau, Constitutional Adviser, would put forward certain proposals for the consideration of the Conference.

Sir B. N. Rau then gave a short exposition of the constitutional position in regard to these vacancies and briefly explained the difficulties that had arisen on account of the recent mergers of Indian States. He referred to the proceedings of a meeting, held at Simla on the 12th and 14th of June last, of the representatives of the Constituent Assembly Secretariat and of the States Ministry, and drew the attention of the Conference to certain tentative conclusions reached at that meeting. Copies of the minutes of this meeting, together with a statement prepared on the basis of the decisions taken thereat,\* were then distributed to all persons attending the Conference.

As a result of the discussions which ensued the following decisions were taken :

1. It was agreed that the States or groups of States in Part I of the statement annexed to these minutes, having been unaffected by the recent changes did not call for any action now; but as regards the remaining States shown in Part II of the statement, it was decided that they should be regrouped and the seats reallocated to them. The detailed allocation of seats and existing representatives to the various States and groups of States was then taken up.
2. The proposals made in Part II of the statement as regards the Orissa States, the Central Provinces and Berar States, the Madras States, the Bombay States, the Himachal Pradesh, Vindhya Pradesh and the Patiala and East Punjab States Union were agreed to.
3. As regards the seats allotted to the United State of Kathiawar (Saurashtra), it was decided that Shri Bhawanji Arjan Khemji should be assigned to Cutch, as he was originally elected by that State when it was part of the Saurashtra Group of States, and that the vacancy caused by this transfer should be filled up by election in due course.
4. A similar change was suggested in the case of the United State of Matsya where it was decided that Shri Baldeo Swarup's name should be transferred to the United State of Rajasthan, as he really belonged

\*See Document No. 97 *supra*.

- to Bundi State. As a result of this change, there would be two vacancies instead of one to be filled up in the United State of Matsya.
5. Consequent on the transfer of Shri Baldeo Swarup to the United State of Rajasthan, this group would have five sitting members as against the four seats to which it is entitled. It was therefore decided that, as in the case of Vindhya Pradesh, instead of excluding one member arbitrarily, the better course would be to declare all the seats vacant and hold a fresh election for the resulting four vacancies.
  6. As regards the United State of Malwa, it was contended by one of the members of the Conference that Shri W. S. Sarwate who represents Indore should not continue as a member, as he was no longer the Dewan of the State. The sense of the Conference was not in favour of declaring Shri Sarwate's seat vacant on this ground, as the proper course was for the member himself to resign or to induce him to resign. In that case, an additional vacancy would arise in respect of this Union, taking the total number of vacancies to four.
  7. As already stated, the seat allotted to Cutch would be assigned to Shri Bhawanji Arjan Khemji who was originally elected from that State when it formed part of the Saurashtra group.
  8. There was some discussion whether Junagadh should be left out of account for the present but it was decided that steps should be taken to fill the seat allotted to that State and that the Administrator of the State should be appointed to act as Convener.
  9. It was agreed that the following States, namely Jaisalmer, Tehri-Garhwal, Sandur and Bilaspur, which have so far been unaffected by any of the recent changes and the States of Seraikela and Kharsawan, which have been integrated with Bihar, as well as Loharu, Pataudi and Dujana, integrated with East Punjab, should form a single Residuary Group of States entitled to return one representative to the Constituent Assembly.
  10. As regards the method of filling these vacancies it was agreed that in the case of Unions of States of the Saurashtra type, the Rajpramukhs; in the case of Unions of the Orissa type, the Governor of the Province with which the States have been integrated, or the Chief Commissioner of the new unit, in the case of Junagadh, the Administrator of Junagadh; and, in the case of the Residuary Group of States, the States Ministry of the Government of India, should be requested to take steps to fill vacancies by election, the representatives to be elected by the elected members of the legislatures of the new units, or, where such legislatures do not yet exist, by members of the electoral colleges constituted in accordance with the provisions made in this behalf by the Rajpramukhs, the Provincial Government, the Chief Commissioner, the Administrator or the States Ministry, as the case may be.

11. It was further agreed that in filling vacancies in the seats of representatives allocated to the new units as shown in the statement, the States or groups of States which had representation in their own right under the existing rules should, as far as possible, be treated as separate constituencies of the new units, as, for instance, in the Malwa Union, (1) Gwalior, (2) Indore and (3) the rest of the States would form three separate constituencies of the Union for the purpose of electing representatives to the Constituent Assembly.

12. It was also agreed that the sitting members would continue to hold office until the members who were to take their places had been duly elected by the new Unions and had taken their seats. The new elections were to be completed before the end of September 1948.

The Conference was of the opinion that provisions to implement the above decisions could be made by the Hon'ble President of the Constituent Assembly by virtue of the powers conferred on him by rule 66 of the Constituent Assembly Rules.

The Statement attached herewith shows the regrouping and reallotment of seats as approved by the Conference.

### ANNEXURE

#### PART I

Name of State or group of States	Population (Millions)	No. of seats allotted	Names of representatives
Hyderabad . . . . .	16.34	16	
Mysore . . . . .	7.33	7	1. Sir A. Ramaswamy Mudaliar 2. Shri T. Siddalingaiya 3. Shri H. R. Guruva Reddy 4. Shri S. V. Krishnamoorthy Rao 5. Shri K. Hanumanthaiya 6. Vacancy 7. Shri T. Channiah
Kashmir . . . . .	4.02	4	
Baroda . . . . .	2.86	3	1. Shri S. A. Sudhalkar 2. Durbar Gopaldas A. Desai 3. Shri Chunilal P. Shah
Travancore . . . . .	6.07	6	1. Shri A. Thanu Pillai 2. Shri A. Achuthan 3. Shri P. S. Nataraja Pillai 4. R. V. Thomas, Esq. 5. K. A. Mohamed, Esq. 6. E. John Phillipose, Esq.

Name of State or group of States	Population (Millions)	No. of seats Allotted	Names of representatives
Cochin . . . . .	1.42	1	1. Shri P. Govinda Menon
Jodhpur . . . . .	2.56	2	1. Rajya Ratna Shri Harish Chandra 2. Shri Jainarain Vyas
Jaipur . . . . .	3.04	3	1. Sir V. T. Krishnamachari 2. Pandit Hiralal Shastri 3. Raja Sardar Singhji Bahadur of Khetri
Bikaner . . . . .	1.29	1	Rao Bahadur Kanwar Jaswant Singhji
Bhopal . . . . .	0.79	1	
Kolhapur . . . . .	1.09	1	Shri A. B. Latthe
Mayurbhanj . . . . .	0.99	1	Shri Lal Mohan Pati
Sikkim } (12)	0.76	1	Shri Himmatsingh K. Maheshwari
Cooch Behar } (64)			
Tripura } . . . . .	1.23	1	Shri G. S. Guha
Manipur } . . . . .			
Khasi States } . . . . .	0.93	1	Col. B. H. Zaidi
Rampur } . . . . .			
Benares } . . . . .	50.72	49	

## PART II

Name of State or group of States	Population (Millions)	No. of seats Allotted	Names of representatives	Convenor
<i>Orissa States :</i>				
Athgarh	4.05	4	1. Shri N. Madhava Rao 2. Rai Bahadur Lala Raj Kanwar 3. Shri Sarangadhar Das 4. Shri Yudhishtir Misra	Governor of Orissa
Athmalik				
Bamra				
Baramba				
Baudh				
Bonai				
Daspalla				
Dhenkanal				
Gangpur				
Hindol				
Kalahandi				
Keonjhar				
Khandpara				
Narsinghpur				
Nayagarh				
Nilgiri				
Pal Lahara				
Patna				
Rairakhol				
Ranpur				
Sonepur				
Talcher				
Tigiria				

Name of State or group of States	Population (Millions)	No. of seats Allotted	Names of representatives	Convener
<i>Central Provinces and Berar States</i>				
Bastar Changbhakar Chhuikhadan Jashpur Kanker Kawardha Khairagarh Korea Nandgaon Raigarh Sakti Sarangarh Surguja Udaipur Makrai	2.83	3	1. Shri Kishorimohan Tripathi 2. Shri Ram Prasad Potai 3. Vacancy	Governor of C.P. & Berar
<i>Madras States</i>				
Banganapalle Pudukkottai	0.48	1	Vacancy	Governor of Madras
<i>Bombay States</i>				
Rajpipla Palanpur Cambay Dharampur Balasinor Baria Chhota Udepur Sant Lunawada Bansda Sachin Jawhar Danta Janjira Sangli Savantvadi Mudhol Bhor Jamkhandi Miraj (Sr.) Miraj (Jr.) Kurundwad (Sr.) Kurundwad (Jr.) Akalkot Phaltan Jath Aundh Ramdrug Idar Radhanpur Sirohi Savanur Wadi Vijayanagar Jambughoda 271 minor States (thanas, etc.)	4.40	4	1. Khan Bahadur F. Kothawala 2. Shri Vinayakrao B. Vaidya 3. Shri B. N. Munavalli 4. Shri Gokulbhai D. Bhatt of Sirohi.	Governor of Bombay



Name of State or group of States	Population (Millions)	No. of seats allotted	Names of representatives	Convener
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*Himachal Pradesh :*

Bashahr	0.94	1	Vacancy	Chief Commissioner
Sirmur				
Chamba				
Mandi				
Suket				
Baghal				
Baghat				
Balsan				
Bhajji				
Bija				
Darkoti				
Dhami				
Jubbal				
Keonthal				
Kumharsain				
Kunihar				
Kuthar				
Mahlog				
Mangal				
Sangri				
Tharoach				

*United State of Kathiawar (Saurashtra) :*

Nawanagar	3.52	4	<ol style="list-style-type: none"> <li>1. Shri Balwantrai Gopalji Mehta</li> <li>2. Shri Jaisukh Lal Hathi</li> <li>3. Vacancy</li> <li>4. Vacancy</li> </ol>	Rajpramukh
Bhavnagar				
Porbandar				
Dhrangadhra				
Morvi				
Gondal				
Jafrabad				
Wankaner				
Palitana				
Dhrol				
Limbdi				
Rajkot				
Wadhawan				
Lakhtar				
Sayla				
Chuda				
Vala				
Jasdan				
Thanadevli				
Vadia				
Lathi				
Muli				
Bajana				
Virpur				
Malia				
Kotda-Sangani				
Jetpur				
Bilkha				
Patdi				
Khirasra				
419 minor States (thanas etc.)				

Name of State or group of States	Population (Millions)	No. of seats Allotted	Names of representatives	Convener
<i>United State of Matsya</i>				
Alwar Bharatpur Dholpur Karauli	1.84	2	1. Vacancy (Alwar) 2. Vacancy	
<i>United State of Rajasthan</i>				
Udaipur Kotah Banswara Bundi Dungarpur Jhalawar Kishengarh Partapgarh Shahpura Tonk	4.26	4	1. Lt. Col. Kr. Dalel Singhji 2. Sir S. V. Ramamurthi 3. Shri Manikya Lal Varma 4. Maharaj Mandhata Singh 5. Shri Baldeo Swarup.  [Rather than exclude one member arbitrarily, the better course would be to declare all the seats vacant and hold a fresh election for the four seats.]	Rajpramukh
<i>United State of Vindhya Pradesh</i>				
Rewa Ajaigarh Baoni Baraundha Bijawar Chhatarpur Charkhari Datia Maihar Nagod Orchha Panna Samthar Alipura Banka Pahari Beri Bhausaunda Bihat Bijna Dhurwai Garrauli Gaurihar Jaso Jigni Kamta Rajaula Khaniadhana Kothi Lugasi Naigawan-Rebai Pahra Paldeo (Nayagaon) Sarila Sohawal Taraon Tori Fatehpur	3.57	4	1. Shri Lal Shiv Bahadur Singh 2. Shri Lal Yadendra Singh 3. Major Maharajkumar Pushpendra Singhji 4. Rao Raja Jayendra Singh Ju Deo 5. Pandit Chaturbhuj Pathak 6. Kunwar Shamsher Jung  [Rather than exclude two members arbitrarily, the better course would be to declare all the seats vacant and hold a fresh election for 4 seats.]	Rajpramukh

Name of State or group of States	Population (Millions)	No. of seats Allotted	Names of representatives	Convener					
<i>United State of Malwa :</i>									
Indore Gwalior Dewas (Sr.) Dewas (Jr.) Khilchipur Kurwai Narsingarh Rajgarh Alirajpur Barwani Dhar Jaora Jhabua Ratlam Sailana Sitamau Jobat Kathiawara Mathwar Piploda	7.15	7	1. Shri V.S. Sarwate 2. Lt. Col. Brijraj Narain 3. Shri Gopikrishna Vijai- vargiya 4. Shri Ram Sahai 5. Vacancy (Gwalior) 6. Vacancy 7. Vacancy	Rajpramukh					
<i>Patiala &amp; East Punjab States Union :</i>									
Patiala Faridkot Jind Kapurthala Malerkotla Nabha Kalsia Nalagarh			3.42	3	1. Sardar Jaidev Singh 2. Vacancy (Patiala) 3. Vacancy	Rajpramukh			
Cutch :					0.50	1	Shri Bhawanji Arjan Khemji	Chief Com- missioner	
Junagadh :					0.67	1	Vacancy	Adminis- trator	
<i>Residuary States :</i>									
Jaisalmer Sandur Tehri- Garhwal Bilaspur					0.09 0.02 0.40 0.11	0.91	Vacancy	To be fill- ed up by the Mi- nisty of States	
<i>Bihar States :</i>									
Seraikela Kharsawan			0.21	0.91	Vacancy				
<i>East Punjab States :</i>									
Loharu Pataudi Dujana			0.08	0.91	Vacancy				
			38.54	40					
GRAND TOTAL OF PARTS I AND II	89.26	89							

